

Other Orders/Judgments1:18-mc-00038-JL AMATUCCI MASTER FILE V. ALL DEFENDANTS

U.S. District Court

District of New Hampshire

opened as
new case

20-cv-1194

Notice of Electronic Filing

The following transaction was entered on 12/23/2020 at 8:56 AM EST and fi

Case Name: AMATUCCI MASTER FILE V. ALL DEFENDANTS**Case Number:** 1:18-mc-00038-JL**Filer:****Document Number:** No document attached**Docket Text:**

ENDORSED ORDER: [30] Motion for Judge Laplante to Void the Summary Judgment He Allowed to Attorney Mullen. Text of Order: The Motion for Judge Laplante to Void the Summary Judgment He Allowed to Attorney Mullen (Doc. No. 30) is construed as a request to open a new lawsuit against Judge Laplante, which is before the undersigned to determine whether it violates either of the filing restrictions applicable to Mrs. Amatucci's ability to file new lawsuits in this court. See Doc. No. 4 (July 29, 2013 Order, Amatucci v. Hamilton, No. 13-cv-087-SM (D.N.H.)); Doc. No. 2 (Apr. 11, 2018 Order, Amatucci v. Chase, No. 17-cv-237-JL (D.N.H.)). The instant filing (Doc. No. 30) is not prohibited by either filing restriction as it names Judge Laplante as the sole defendant, who was not a defendant to, or in privity with a defendant to, either of the above-listed lawsuits. Accordingly, without comment on the merits of any of the claims or assertions contained therein, the court directs the clerks office to docket Document No. 30 as the complaint in a new civil case. **So Ordered by Chief Judge Landya B. McCafferty. (ed)**

1:18-mc-00038-JL Notice has been electronically mailed to:

1:18-mc-00038-JL Notice, to the extent appropriate, must be delivered conventionally to:

Josephine Amatucci
PO Box 272
Wolfeboro Falls, NH 03896

MULLEN WAS NOT IN PRIVITY
WITH ANY DEFENDANTS IN
THIS LEGAL MALPRACTICE NEW
CAUSE OF ACTION. 20-CV-1194
HAS BEEN VOLUNTARILY DISMISSED
TO CHANGE WRONG TITLE

HS

17

Amy Capone-Muccio

From: Steve Wood <SWood@wolfeboropolice.org>
Sent: Tuesday, December 15, 2020 10:04 AM
To: Amy Capone-Muccio
Cc: Puffer, Mark H.; James Pineo
Subject: Re: right to know- Amatucci

Good morning Amy,

*De Facto Policy To Ignore
Police Misconduct*

The Police Commission does not maintain files on anyone. We are not an investigative body. If there were valid complaints of wrongdoing within our Department, we would have another agency do the investigation to reduce any possibility of suspected bias or collusion. Honestly, I don't even save her filings after I read them as she is regurgitating cases she has lost, which is all of them. She remains vexatious and seems intent on being a constant thorn in our sides. The Town has spent a great deal of money defending itself from her frivolous accusations but as far as I'm concerned, unless she has something legitimate and worthy of consideration, I simply don't wish to waste my time. I'm done venting now...

We honestly have nothing as a Commission and having spoke with Dean yesterday after your original email, he stated that the Department has nothing on file either. The investigation was conducted by the Belknap County Sheriff's Office.

Steve *THERE IS AN ACTIVE LAWSUIT IN THE U.S. DISTRICT
COURT AGAINST RONAPAV 00449 CASE NUMBER*

Sent from my iPhone

> On Dec 15, 2020, at 9:07 AM, Amy Capone-Muccio <tmsecretary@wolfeboronh.us> wrote:

>

> Hi Steve;

>

> I did my best to explain no file, case has been closed but she insists we have files. I have all the correspondence down here I offered her to come look, there are responses in there from Jim and some from Owen in past. I just don't know what she is looking for? I assume the case is with the court. I have also told her we are not at liberty to discuss Mr. Maloney's employment with the town other than he is employed by us. She wants your file.

>

> This email is being sent to Mark Puffer as well for some advice?

>

>

> Amy Capone-Muccio

> Executive Assistant

> Town Manager's Office

> Town of Wolfeboro

> PO Box 629

> Wolfeboro, NH 03894

> (603) 569-8161

>

> CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or otherwise be protected by law. Any unauthorized use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

>

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci,
Plaintiff

Civil Action No.: 17-CV-237-JL

v.

Town of Wolfeboro, Shane Emerson and
Stuart Chase,
Defendants

MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF
DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

I. INTRODUCTION

Plaintiff, Josephine Amatucci, ("Amatucci") has filed a complaint against the Town of Wolfeboro and against several of its town officials and employees. After preliminary review by this Court, and after various motions and a hearing conducted by the Court to determine what the remaining claims against the Defendants are, four (4) claims remain in this action. They consist of a federal malicious prosecution claim against Defendants Shane Emerson and former police chief, Stuart Chase; a state malicious prosecution claim against the same two Defendants in their individual capacity; a third claim against the Town of Wolfeboro that is entitled a "Monell" claim for the Town having an alleged "de facto" policy not to investigate police misconduct; and a state law claim against the Town of Wolfeboro based upon

53
20

vicarious liability for the alleged state law tort of malicious prosecution that was allegedly committed by former Chief Chase and Officer Shane Emerson.

Amatucci has filed a motion for summary judgment in which she seeks judgment as a result of her arrest for speeding on May 7, 2014. The basis for her motion for summary judgment appears to be that she was found not guilty of speeding at the state court level and she believes that because the court determined she was not guilty there was no probable cause for arresting her for the offense of speeding.

Additionally, Amatucci states that under a theory of municipal liability, the Town has a de facto policy which was the moving force behind the violation of her constitutional rights. However, she cites no facts supporting this and there is no evidence that there is a "de facto" policy of the Town.

Because the evidence and the affidavits submitted with this memorandum show that there was probable cause to stop Amatucci for speeding, her motion for summary judgment should be denied. Additionally, because there was probable cause, Amatucci's claims for malicious prosecution on both the federal and state level fail.

Also, there is no evidence of any de facto policy in the Town of Wolfeboro not to investigate police misconduct and that claim must fail.

Finally, because the evidence demonstrates that there was probable cause to stop Amatucci, the vicarious liability claim against the Town of Wolfeboro also fails.

II. FACTS¹

This case arises out of a series of events that occurred on May 7, 2014 that resulted in Amatucci being pulled over for speeding and disobeying a police officer, and then arrested.

On May 7, 2014, Amatucci went to the Wolfeboro Police Department to lodge a complaint about a Wolfeboro Police Department Officer concerning a traffic violation. *Complaint at P.9*. Not satisfied with the response she received from the police department, Amatucci then went to the Town Hall to complain. *Complaint at P.10*. While there, Amatucci interacted with several town employees and a disturbance resulted. *Complaint at P.11*. As a result of the disturbance, the Wolfeboro Police Department was called to report to the Town Hall. *See, Affidavit of Stuart Chase at P.3, attached as Exhibit A*. Before the police arrived at the Town Hall, Amatucci left claiming she was going to go to the Carroll County Sheriff's Department to complain about the Wolfeboro police. *Complaint at P.11*.

The Town of Wolfeboro has a Police Commission which oversees and manages the Wolfeboro Police Department. When a New Hampshire municipality has a police commission, the police commission makes and enforces all rules necessary for the operation of the police department and has the authority to discipline and, if necessary, remove all police personnel. *RSA 105-C:4*. In a municipality which has adopted a police commission, the Board of Selectmen has no authority over the management of the police department and has no authority to discipline or, if

¹ The facts are assumed true for purposes of the Defendants' Motion for Summary Judgment and objection to Plaintiff's Motion for Summary Judgment

22
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necessary, remove police personnel, and no authority to investigate charges against police personnel. See, Affidavit of Becky Merrow at P.3, attached as Exhibit B.

On May 7, 2014, Officer Shane Emerson of the Wolfeboro Police Department, a certified radar operator, was driving a cruiser equipped with a certified radar unit that was operating properly and accurately. See, Affidavit of Shane Emerson at P.6, attached as Exhibit C; Order of Carroll County District Court (Patten, J.) at pp. 1-2, attached as Exhibit D. As he was driving towards downtown Wolfeboro on Center Street, he was advised by dispatch that a person of interest involved in a disturbance at Town Hall to which he was responding had left that location. *Emerson Affidavit at P. 2; Order at p.2.* Amatucci was that person so the dispatcher gave Officer Emerson a description of her car. Id.

When Officer Emerson was near what is commonly referred to as the Mast Landing area, he observed a vehicle come around the curve which appeared to be speeding so he activated his radar. *Emerson Affidavit at P. 3; Order at p. 2.* There were two vehicles within its range of interception but it picked up the signal from the car moving the fastest which was Amatucci's car. *Order at p.2.*

The radar unit indicated Amatucci was traveling 42 miles per hour in a posted 30 miles per hour zone so Officer Emerson turned around, activated the cruiser's blue strobe lights and siren, and began to pursue Amatucci. *Emerson Affidavit at P. 5; Order at p. 2.* Instead of stopping, Amatucci continued north on Center Street for approximately 4 miles before she pulled over in response to a Carroll County Sheriff's Department Officer standing in the road signaling her to stop. Id.

23
56

Violation of Speedy Trial
On June 25, 2015, a trial was held on the charges of speeding and disobeying a police officer in the Carroll County Circuit Court before Judge Patten. In a written order, Judge Patten found Amatucci not guilty of speeding. *Order at p. 1.* The Court found that Amatucci had been traveling 42 miles per hour in an area where the posted speed limit was 30 miles per hour. *Order at pp. 2-3.* The Court further found, however, that the prosecution had failed to prove beyond a reasonable doubt that Amatucci had been traveling at a speed that was “unreasonable and imprudent for the conditions existing” and that it had therefore failed to prove a violation of the state’s speeding statute, RSA 265:60. *Order at p.3.*

The Court then found Amatucci guilty of disobeying a police officer, a Class B Misdemeanor, for failing to stop for the police once they had activated their lights and sirens in an attempt to pull her over. *Order at p. 4.*

The Court determined that even though Amatucci was traveling 12 miles per hour over the posted speed limit, there was no evidence that she was traveling at a speed that was unreasonable and imprudent for the conditions existing and accordingly found her not guilty of speeding. *Order at p. 3.*

III. ARGUMENT

A. Amatucci’s claims for federal malicious prosecution and state malicious prosecution fail because of the existence of probable cause.

A plaintiff may bring a suit under §1983 for malicious prosecution if she can establish that: “The defendant (1) caused; (2) a seizure of the plaintiff pursuant to legal process unsupported by probable cause, and (3) criminal

proceedings terminated in Plaintiff's favor." Hernandez-Cuevas v. Taylor, 723 F.3d. 91, 100-101 (1st. Cir. 2013).

The elements of a state common law malicious prosecution claim are similar. To prevail on a claim for malicious prosecution, a plaintiff must demonstrate that: "(1) he was subjected to a criminal prosecution or civil proceeding instituted by the defendant; (2) without probable cause; (3) with malice; and (4) the prior action terminated in his favor." Ojo v. Lorenzo, 164 N.H. 717, 727 (2013).

Probable cause exists "when, at the time of the arrest, the facts and circumstances within the officer's knowledge...are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed, is committing or is about to commit an offense." Holder v. Town of Sandown, 585 F.3d. 500, 504 (1st. Cir. 2009).

At the time that Officer Emerson stopped Amatucci on May 7, 2014, Officer Emerson was a certified radar operator and the radar unit in his cruiser was certified and still within the certification period when the stop occurred. *Emerson Affidavit at P.6; Order at pp. 1-2.* Officer Emerson stated that he checked on the operational accuracy of the radar unit in his cruiser by using pre-set tuning forks, both before and after his shift, and determined the radar unit to be operating properly and accurately. *Id.*

Officer Emerson also stated that while he was traveling towards the downtown area of Wolfeboro on Center Street, he was advised by dispatch that there was a disturbance at the Town Hall and he was responding to that incident.

25
58

He was also advised that the person of interest had left that location. *Emerson Affidavit at P. 2; Order at p. 2.*

Officer Emerson stated that when he was near an area commonly referred to as Mast Landing he observed a vehicle come around the curve which appeared to be speeding. *Emerson Affidavit at P. 3; Order at p. 2.* He stated that he activated his radar at a point that two vehicles were in the radar's range of interception. The radar picked up the signal from the car moving the fastest and it was determined that Amatucci was driving the car and the read out showed that she was traveling 42 miles per hour in a posted 30 mile per hour zone. *Order at p. 2.*

Officer Emerson advised dispatch that he was attempting to stop Amatucci and the reason for the stop was that she was going 42 miles per hour in a 30 mile per hour zone. *Emerson Affidavit at PP. 3 & 4; Order at pp. 2-3.*

In an Order dated June 25, 2015, after a trial on the merits, the Carroll County Circuit Court (Patten, J.) found that Officer Emerson was a certified radar operator and that the radar equipment was certified and was operating properly and accurately. *Order at pp. 1-2.* Judge Patten also determined that Amatucci was going 42 miles per hour in a 30 mile per hour zone. *Order at pp. 3-4.* Judge Patten found Amatucci not guilty of speeding even though she was exceeding the speed limit by 12 miles per hour because he determined that there was no basis for finding that Amatucci was traveling at a speed which was unreasonable and imprudent for the conditions existing having in mind the actual and potential hazards associated with those conditions. *Order at p. 3.*

26
59

He based his ruling on RSA 265:60. That statute, at Section I, prohibits operating a vehicle on a way at a speed which is greater than reasonable and prudent under the conditions and having regard to actual and potential hazards then existing. Section II of RSA 265:60 provides that the speed of a vehicle in excess of the limits specified, shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. Judge Patten specifically determined that Amatucci was traveling 42 miles per hour in the posted 30 mile per hour zone. The fact that she was traveling 12 miles per hour over the speed limit is sufficient to establish probable cause for the stop.

The Order of the Carroll County District Court finding that Amatucci was driving 42 miles per hour in a 30 mile per hour zone is binding upon Amatucci. When assessing whether a state court order has preclusive effect, federal courts apply the law of the state that issued the order. SBT Holdings, LLC v. Town of Westminster, 547 F.3d. 28, 36 (1st. Cir. 2008). Under New Hampshire law, collateral estoppel, the doctrine barring relitigation of issues that have been previously decided in other pleadings is appropriate when the following requirements are met:

The issue subject to estoppel must be identical in each action, the first action must have resolved the issue finally on the merits, and the party to be estopped must have appeared in the first action or have been in privity with someone who did so. Further, the party to be estopped must have had a full and fair opportunity to litigate the issue and the finding must have been essential to the first judgment.

Sempion v. Calivas, 139 N.H. 1, 7 (1994).

27
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Here, Amatuucci was a party to the prosecution for speeding and disobeying a police officer. The finding of the Carroll County District Court that she was going 42 miles per hour in a 30 mile per hour zone is the same as the issue presented here. She had a full and fair opportunity to litigate and the finding was essential to the judgment. She does not have a right to relitigate the issue in this Court.

Accordingly, because there was probable cause to stop Amatuucci for speeding, her claims for federal malicious prosecution and for state common law malicious prosecution fail.

B. Amatuucci's "Monell" claim against the Town of Wolfeboro fails.

Amatuucci repeatedly asserts that the Town of Wolfeboro and or Town Officials in their official capacity are liable pursuant to Monell v. Department of Social Services, 436 U.S. 658 (1978). She alleges that, under the 4th Amendment, the Town is liable to her for malicious prosecution for speeding, because that prosecution was the effectuation of "de facto" municipal policies to ignore police misconduct and police misconduct complaints, and to violate her rights when she complained about the overall police department to town officers.

Under Monell, 436 U.S. at pp.690-691 (1978), "[l]ocal governing bodies...can be sued directly under Section 1983 for monetary, declaratory, or injunctive relief" for alleged constitutional violations arising from "a policy statement, ordinance, or regulation or decision officially adopted and promulgated by that body's officers."

See EMAIL OF Police Commissioner
REFUSING TO INVESTIGATE PAGE 19

Municipal liability can be asserted "where the municipality itself causes the constitutional violation at issue." *Santiago v. Fenton*, 891 F.2d 373, 381 (1st Cir. 1989)(emphasis in original)(quoting *City of Canton v. Harris*, 489 U.S. 378, 385 (1989)).

As stated above, Amatucci asserts that the Town maintained a "de facto" policy of refusing to investigate complaints of police misconduct. She claimed that this policy caused the constitutional violations alleged in this action by allowing Town officials and Wolfeboro police department officers to feel free to act with impunity in violating her rights.

The Court of Appeals for the 1st Circuit has recently described the essential elements of a Monell claim:

In *Monell*...the Supreme Court wrote that a "[l]ocal governing body...can be sued directly under Section 1983...[when it] unconstitutional[ly] implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." [436 U.S. at 690].

However, the Court went on to hold that:

The language of Section 1983, read against the background of the legislative history...compels the conclusion that Congress did not intend municipalities to be held liable unless action pursuant to official policy of some nature caused the constitutional tort....[I]t is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under Section 1983.

Masso-Torrellas v. Mun. of Toa Alta, 845 F.3d 461, 468-69 (1st Cir. 2017)(quoting *Monell*, 436 U.S. at 691-94).

29
42

The crux of Amatuucci's claim is that she claims that various Town officials failed to investigate police misconduct and that this caused her constitutional injury. Instead, she makes the conclusory allegation that there is a policy of failure to investigate police misconduct. The basis for this assertion is that she was told that the Town Board of Selectmen did not have jurisdiction over the police but that the Wolfeboro Police Commission has jurisdiction.

There is no evidence of any plausible allegation that the Town was acting pursuant to any statute, ordinance, regulation, or custom. Here, Amatuucci was told that the municipality has no jurisdiction over the police department and that she would have to go to the police commission. *Merrow Affidavit at P.3.*

Here, Amatuucci only alleges what individual Town employees did. She makes no allegations that the Town ever implemented anything. Pleading a Section 1983 claim against a municipality requires more than enumerating the alleged wrongdoings of its employees. Where the Defendant is a municipality, the Plaintiff must show that the "execution of a government's policy or custom inflicted the injury." *Monell, 436 U.S. at 694.*

As stated above, the reason for the prosecution of Amatuucci for speeding was that she was exceeding the posted speed limit. As both Officer Emerson has stated and the Carroll County Circuit Court found, she was exceeding the speed limit by 12 miles per hour. Moreover, Amatuucci has failed to demonstrate the existence of a "de facto" policy. XXX

C. Officer Emerson and Former Chief Chase are entitled to Qualified Immunity.

Qualified immunity “shields government officials performing discretionary functions from liability for civil damages...[if] their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Fernandez-Salicrup v. Figueroa-Sanchez*, 790 F.3d. 312, 325 (1st Cir. 2015). “This doctrine ‘gives government officials breathing room to make reasonable but mistaken judgments’ and ‘protects all but the plainly incompetent or those who knowingly violate the law.’” *Hunt v. Massi*, 773 F.3d. 361, 367 (1st Cir. 2014)(quoting *Carroll v. Carman*, 135 S.Ct. 348, 350 (2014)).

When assessing whether qualified immunity applies, Courts employ a two-prong analysis. *Fernandez-Salicrup*, 790 F.3d. at 325 (1st Cir. 2015). Under the first prong, the Court must assess “whether the facts alleged or shown by the Plaintiff make out a violation of a constitutional right.” *Id.* Under the second prong, the Court determines “whether the right was ‘clearly established’ at the time of the Defendant’s alleged violation”. *Id.* If either prong is not satisfied, qualified immunity applies and the Plaintiff’s claim fails.

Determining whether a right is clearly established for qualified immunity purposes requires assessing the right “in light of the specific context of the case, not as a broad, general proposition.” *Mullenix v. Luna*, 136 S.Ct. 305, 308 (2015)(*per curiam*). As a result, the inquiry focuses on “whether the violative nature of [the] particular conduct is clearly established.” *Id.*

31

64

Accordingly, to be clearly established, the “contours of [a] right must have been ‘sufficiently definite that any reasonable official in the Defendant’s shoes would have understood that he was violating it.’” Hunt, 773 F.3d. at 368 (quoting Plumhoff v. Rickard, 134 S.Ct. 2012, 2023 (2014)). In the context of Amatucci’s claim here, the qualified immunity standard is satisfied “so long as the presence of probable cause is at least arguable.” Glik v. Cunniffe, 655 F.3d. 78, 88 (2011)(quoting Ricci v. Urso, 974 F.2d. 5, 7 (1st Cir. 1992)).

“Probable cause exists when police officers, relying on reasonably trustworthy facts and circumstances, have information upon which a reasonably prudent person would believe the suspect had committed or was committing a crime.” United States v. Pontoo, 666 F.3d. 20, 31 (1st Cir. 2011). Probable cause does not require certainty or a high degree of assurance but only a fair probability to believe that the arrestee has violated the law. See, Holder v. Town of Sandown, 585 F.3d. 500, 504 (1st Cir. 2009).

A probable cause inquiry is an objective one, meaning that the “only relevant facts are those known to the officer.” Id.

Here, Officer Emerson has stated that his radar showed that Amatucci’s vehicle was going 42 miles per hour in a 30 mile per hour zone. He stated that the radar unit was certified and that it had been checked prior to him using it on May 7, 2014 and was therefore in operable condition. Moreover, as the trial court determined, Officer Emerson advised dispatch that the reason for the stop was 42 in a 30 by Mast Landing. RSA 265:60, II provides that the speed of a vehicle in excess of the limit specified, in this case, 42 miles per hour in a posted 30 mile

per hour zone, is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

Given that Officer Emerson's radar unit showed that Amatucci was exceeding the posted speed limit by 12 miles per hour, he had probable cause to stop her.

The fact that Amatucci was later acquitted of the charge of speeding because the Court determined that she was not traveling at a speed that was unreasonable and imprudent for the conditions existing has no bearing on whether or not there was probable cause. The fact that she exceeded the posted speed limit is enough to provide a reasonable officer with reason to charge Amatucci with speeding.

*NOT ENOUGH
FACTS*

Accordingly, Officer Emerson is entitled to qualified immunity.

Former Chief Chase did not participate at all in the arrest for speeding. Former Chief Chase came upon the scene after Amatucci had been arrested by Officer Emerson and charged with the offense of speeding and with the offense of disobeying a police officer. He did not participate in the arrest of Amatucci, nor did he participate in the prosecution. He did not provide any instructions or guidance to Officer Emerson relative to his pursuit of Amatucci and the subsequent prosecution for speeding.

Based

Accordingly, because there are no facts provided by Amatucci that showed former Chief Chase participating in the arrest, he is not liable at all for the claims asserted by her. The fact that he showed up at the scene after the fact does not mean that he had anything to do with the arrest. Moreover, because she had

33
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failed to stop while Officer Emerson had his blue lights and siren going, it was reasonable for former Chief Chase to assume that the arrest was proper.

Accordingly, he is also be entitled to qualified immunity.

The analysis for official immunity for the state law malicious prosecution claim is similar. There is one difference. In order to apply official immunity to a police officer's conduct, under state law, there is a subjective element in order to be protected by official immunity. In order to lose the protection of official immunity, a police officer must have acted recklessly or wantonly. See, Farrelly v. City of Concord, 168 N.H. 430 (2015); Huckins v. McSwiney, 166 N.H. 176 (2014).

As explained above, Officer Emerson had a reading from his radar unit that Amatucci was exceeding the posted speed limit by 12 miles per hour. His actions in stopping Amatucci after having this information cannot be characterized as wanton or reckless. The Carroll County Circuit Court determined also that Amatucci was exceeding the speed limit. Given this fact, Officer Emerson is entitled to official immunity from the state law claim for malicious prosecution.

Also, as explained above, former Chief Chase did not participate at all in the arrest of Amatucci. To the extent that he participated at all, he would be entitled to this same official immunity that Officer Emerson is.

Finally, the Town of Wolfeboro, because of the official immunity that both Officer Emerson and former Chief Chase have, is not vicariously liable for

Amatucci's state law claims. See Everett v. General Electric Company, 156 N.H. 202 (2007).

IV. CONCLUSION

For the reasons stated above, the Defendants are entitled to summary judgment on all claims. Amatucci's motion for summary judgment must be denied.

Respectfully submitted,

TOWN OF WOLFEBORO, SHANE EMERSON
AND STUART CHASE,

By their attorneys,

RANSMEIER & SPELLMAN P.C.

Dated: July 26, 2018

By: /s/ Daniel J. Mullen
Daniel J. Mullen (NHBA #1830)
P.O. Box 600
Concord, NH 03302-0600
(603) 228-0477
E-mail: dmullen@ranspell.com

Mullen

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded this 26th day of July, 2018 to Josephine Amatucci, P.O. Box 272, Wolfboro, NH 03896.

/s/ Daniel J. Mullen
Daniel J. Mullen

5, 11/11/2018 10:00:00 AM

35
48

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed.R.App.P. 26.1, the Defendants, Stuart Chase, Town of Wolfeboro and Shane Emerson, state that none of them has a parent company.

TABLE OF CONTENTS

	PAGE
TABLE OF CONTENTS.....	1
TABLE OF AUTHORITIES.....	2
STATEMENT IN SUPPORT OF/AGAINST ORAL ARGUMENT..	4
STATEMENT OF THE ISSUES.....	4
STATEMENT OF THE CASE.....	5
STANDARD OF REVIEW.....	9
SUMMARY OF THE ARGUMENT.....	10
ARGUMENT.....	12
1. The District Court properly determined that Ms. Amatucci's 4 th Amendment malicious prosecution claim against the Defendants fails because of the existence of probable cause to arrest her for disobeying a police officer.....	12
2. The District Court properly determined that there was no evidence that Ms. Amatucci was arrested for speeding (as opposed to merely cited) as she did not support that with any submission of evidentiary quality.....	15
3. The District Court properly determined that the Town of Wolfeboro was not liable for the malicious prosecution claim because there was no constitutional violation by the employees of the municipality.	17

*Lie, Lie,
Lie, Lie*

36
70

speeding and that they were just trying to stop her car. However, the record entered into evidence refuted Ms. Amatucci's mistaken and incorrect claim. Defendants provided the District Court with Sgt. Thompson's affidavit which stated that "he was not involved in the Wolfeboro officers' first attempt to stop Ms. Amatucci" and that Sgt. Thompson "does not know what her initial speed was at the time the Wolfeboro officer tried to stop Ms. Amatucci." *Thompson Affidavit at ¶4; App. at p. 150.*

Based on the record before it, there was no evidence sufficient to rebut the Defendants' showing that Officer Emerson had probable cause to believe that Ms. Amatucci drove faster than the posted speed limit when he caused her to be pulled over.

2. **The District Court properly determined that there was no evidence that Ms. Amatucci was arrested for speeding (as opposed to merely cited) as she did not support that with any submission of evidentiary quality.**

lie
lie
lie
lie

Ms. Amatucci argued to the District Court that because speeding is a non-criminal traffic violation, she could not be pulled over for the offense of speeding. As the District Court pointed out, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred. *Whren v. United States*, 517 U.S. 806, 810 (1996). *Order at p.18; Add. at p. 42; See also, RSA 594:10, I(a).* Pursuant to New Hampshire law, once an

37
71

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci,
Plaintiff,

v.

James O'Brien, et al,
Defendants.

Case No.: 15-CV-00356-JL

JUIRY TRIAL DEMANDED

**ANSWER AND AFFIRMATIVE DEFENSES OF THE VARIOUS DEFENDANTS
OTHER THAN MR. O'BRIEN, WHO HAS NOT BEEN SERVED, TO THE VARIOUS
DOCUMENTS THAT PLAINTIFF HAD SERVED ON THE DEFENDANTS AS "THE
COMPLAINT"**

Preliminary Statement of Counsel: On August 5, 2016, the Magistrate Judge issued a Report and Recommendation reviewing a number of complaints and supplements the plaintiff had filed against certain municipal defendants. Judge Laplante approved the Report and Recommendation that allowed some, but not all, of plaintiff's complaints/counts against some, but not all, of the potential defendants, to proceed. The Clerk's office then issued summonses to the Town of Wolfeboro, Police Chief Chase, Robert Houseman, Director of Planning and Development, David Owen, Town Manager, Officer Shane Emerson, and former Officer, James O'Brien. The Defendants, other than Mr. O'Brien who lives out-of-state, voluntarily accepted service on August 11, 2016 through Attorney Puffer. The documents served on the defendants are inches thick and it is not clear what the Court intended the defendants to respond to as "the complaint." Therefore, out of caution, the defendants will respond to the allegations of the various documents, including to the Report And Recommendation, one by one and then will assert affirmative defenses at the end of this Answer applicable to all the allegations in the various documents served on the defendants. The defendants' Answer to the Report and

8b. Denied.

8c. Denied.

8d. Denied.

9. Denied. Admitted, however, that although the plaintiff was in fact exceeding the posted speed limit, the state trial court found that the prosecutor failed to prove that the excessive speed was unreasonable for the conditions and therefore, under NH statute, the state had failed to prove she was speeding. However, the court also found that she had an obligation to stop for the police, that she failed to do so and that she was, therefore, guilty of failing to stop for the police.

~~Admitted that plaintiff was validly arrested and prosecuted for speeding and failure to stop.~~

Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of whether the plaintiff was truly headed to the sheriff's office for any purpose and therefore deny those allegations. Defendants deny all the remaining allegations of paragraph 9. Also see the response above to Paragraph 7.

10. Denied except admitted that the plaintiff came to the Town Hall and was shouting at Anne Marble and made a disturbance. Admitted that Mr. Houseman was the Town Planner but that he was acting as Town Manager that day. Denied that Mr. Houseman called the police department. Nor did he order anyone else to call the police or even know at the time anyone was calling the police. He escorted plaintiff to an empty courtroom (without touching her) in order to try to calm down Ms. Amatucci and to protect Ms. Marble.

Admitted that when the plaintiff arrived at Town Hall she first spoke to Town employee Cathy Ferland and asked to speak to Anne Marble. Admitted Anne Marble is/was the Administrative Assistant for the Town Manager. Denied that Ms. Marble was "alone" as there were other employees around, including, for example, Cathy Ferland and Brenda LaPointe. Ms.

Wherefore, defendants request that the Court and/or the Jury:

- A) Dismiss all plaintiff's claims;
- B) Grant such further relief to the defendants as is just and proper.

JURY TRIAL DEMANDED.

Respectfully submitted,

Shane Emerson, David Owen, Rob Houseman,
Stuart Chase, and Town of Wolfeboro

By Their Attorneys,

Ransmeier & Spellman
Professional Corporation

Dated: September 20, 2016

By: /s/ Garry R. Lane
Garry R. Lane (NHBA #2855)
One Capitol Street
P.O. Box 600
Concord, NH 03302-0600
Tel. (603) 228-0477

CERTIFICATE OF SERVICE

I hereby certify that this motion has been served this day on Mrs. Amatucci by conventional mail service at Josephine Amatucci, PO Box 272, Wolfeboro Falls, NH 03896.

/s/ Garry R. Lane
Garry R. Lane

40

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci,
Plaintiff,

v.

James O'Brien, et al,
Defendants.

Case No.: 15-CV-00356-JL

JURY TRIAL DEMANDED

**ANSWER AND AFFIRMATIVE DEFENSES OF THE VARIOUS DEFENDANTS
OTHER THAN MR. O'BRIEN, WHO HAS NOT BEEN SERVED, TO THE VARIOUS
DOCUMENTS THAT PLAINTIFF HAD SERVED ON THE DEFENDANTS AS "THE
COMPLAINT"**

Preliminary Statement of Counsel: On August 5, 2016, the Magistrate Judge issued a Report and Recommendation reviewing a number of complaints and supplements the plaintiff had filed against certain municipal defendants. Judge Laplante approved the Report and Recommendation that allowed some, but not all, of plaintiff's complaints/counts against some, but not all, of the potential defendants, to proceed. The Clerk's office then issued summonses to the Town of Wolfeboro, Police Chief Chase, Robert Houseman, Director of Planning and Development, David Owen, Town Manager, Officer Shane Emerson, and former Officer, James O'Brien. The Defendants, other than Mr. O'Brien who lives out-of-state, voluntarily accepted service on August 11, 2016 through Attorney Puffer. The documents served on the defendants are inches thick and it is not clear what the Court intended the defendants to respond to as "the complaint." Therefore, out of caution, the defendants will respond to the allegations of the various documents, including to the Report And Recommendation, one by one and then will assert affirmative defenses at the end of this Answer applicable to all the allegations in the various documents served on the defendants. The defendants' Answer to the Report and

123
41
72

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

123

Josephine Amatucci,
Plaintiff,

v.

James O'Brien, et al,
Defendants.

Case No.: 15-CV-00356-JL

JURY TRIAL DEMANDED

**ANSWER AND AFFIRMATIVE DEFENSES OF THE VARIOUS DEFENDANTS
OTHER THAN MR. O'BRIEN, WHO HAS NOT BEEN SERVED, TO THE VARIOUS
DOCUMENTS THAT PLAINTIFF HAD SERVED ON THE DEFENDANTS AS "THE
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42

43

8b. Denied.

8c. Denied.

8d. Denied.

9. Denied. Admitted, however, that although the plaintiff was in fact exceeding the posted speed limit, the state trial court found that the prosecutor failed to prove that the excessive speed was unreasonable for the conditions and therefore, under NH statute, the state had failed to prove she was speeding. However, the court also found that she had an obligation to stop for the police, that she failed to do so and that she was, therefore, guilty of failing to stop for the police.

~~Admitted that plaintiff was validly arrested and prosecuted for speeding and failure to stop.~~ *

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10. Denied except admitted that the plaintiff came to the Town Hall and was shouting at Anne Marble and made a disturbance. Admitted that Mr. Houseman was the Town Planner but that he was acting as Town Manager that day. Denied that Mr. Houseman called the police department. Nor did he order anyone else to call the police or even know at the time anyone was calling the police. He escorted plaintiff to an empty courtroom (without touching her) in order to try to calm down Ms. Amatuucci and to protect Ms. Marble.

Admitted that when the plaintiff arrived at Town Hall she first spoke to Town employee Cathy Ferland and asked to speak to Anne Marble. Admitted Anne Marble is/was the Administrative Assistant for the Town Manager. Denied that Ms. Marble was "alone" as there were other employees around, including, for example, Cathy Ferland and Brenda LaPointe. Ms.

per hour zone, is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

Given that Officer Emerson's radar unit showed that Amatucci was exceeding the posted speed limit by 12 miles per hour, he had probable cause to stop her.

The fact that Amatucci was later acquitted of the charge of speeding because the Court determined that she was not traveling at a speed that was unreasonable and imprudent for the conditions existing has no bearing on whether or not there was probable cause. The fact that she exceeded the posted speed limit is enough to provide a reasonable officer with reason to charge Amatucci with speeding.

GOOD FAITH NOT ENOUGH

Accordingly, Officer Emerson is entitled to qualified immunity.

Former Chief Chase did not participate at all in the arrest for speeding.

Former Chief Chase came upon the scene after Amatucci had been arrested by Officer Emerson and charged with the offense of speeding and with the offense of disobeying a police officer. He did not participate in the arrest of Amatucci, nor did he participate in the prosecution. He did not provide any instructions or guidance to Officer Emerson relative to his pursuit of Amatucci and the subsequent prosecution for speeding.

Accordingly, because there are no facts provided by Amatucci that showed former Chief Chase participating in the arrest, he is not liable at all for the claims asserted by her. The fact that he showed up at the scene after the fact does not mean that he had anything to do with the arrest. Moreover, because she had

vicarious liability for the alleged state law tort of malicious prosecution that was allegedly committed by former Chief Chase and Officer Shane Emerson.

Amatucci has filed a motion for summary judgment in which she seeks judgment as a result of her arrest for speeding on May 7, 2014. The basis for her motion for summary judgment appears to be that she was found not guilty of speeding at the state court level and she believes that because the court determined she was not guilty there was no probable cause for arresting her for the offense of speeding.

Additionally, Amatucci states that under a theory of municipal liability, the Town has a de facto policy which was the moving force behind the violation of her constitutional rights. However, she cites no facts supporting this and there is no evidence that there is a "de facto" policy of the Town.

Because the evidence and the affidavits submitted with this memorandum show that there was probable cause to stop Amatucci for speeding, her motion for summary judgment should be denied. Additionally, because there was probable cause, Amatucci's claims for malicious prosecution on both the federal and state level fail.

Also, there is no evidence of any de facto policy in the Town of Wolfeboro not to investigate police misconduct and that claim must fail.

Finally, because the evidence demonstrates that there was probable cause to stop Amatucci, the vicarious liability claim against the Town of Wolfeboro also fails.

Indeed, in this case, the evidence shows that she was driving over the speed limit of 12 miles per hour and this, by itself, gave the officer probable cause to stop her.

Given that there was probable cause, there can be no claim for malicious prosecution and the Defendants are entitled to judgment as a matter of law.

There is also absolutely no evidence in the record that Ms. Amatucci was stopped for speeding. To the contrary, she was arrested for disobeying an officer and was found guilty of that charge at trial. Everything in this case regarding her arrest, her detention and bail all stemmed from her failure to stop and failure to obey a police officer. It did not stem from the stop for speeding.

Similarly, because there is no constitutional tort in this action, there can be no Monell claim against the Town of Wolfeboro. Furthermore, there is absolutely no evidence that there was a policy statement, ordinance or regulation officially adopted and promulgated by the Town that interfered with Ms. Amatucci's constitutional rights. Ms. Amatucci claims that various town officials failed to investigate police misconduct and this caused her constitutional injury. She bases this claim on the fact that she was told that the municipality had no jurisdiction over the police department and that she would have to go to the police commission. Here, Ms. Amatucci has failed to demonstrate by any evidence whatsoever, that a



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY, DIVISION OF STATE POLICE
 33 Hazen Dr, Concord NH 03305 (603) 223-3867
CRIMINAL HISTORY RECORD



SID# NH644856

Name AMATUCCI, JOSEPHINE S

DOB 09/27/1938

POB	MA	Hair	Brown	Weight	165
Sex	F	Eye	Brown	Height	67
ADDR	PO BOX 272	Race	White	Prints	Y
	WOLFEBORO FALLS NH 03896	FBI	:548419AE4	Photo Available	Y
OLN		FPC		Palm Available	Y

Alias

Caution

Name

DOB

Code

Comments

Body Markings

Code

Description

Comments

Cycle 001

Arrest

Tracking #	TNH040140236	Agency	WOLFEBORO PD
Arrest Date	05/07/2014	Violation Date	05/07/2014
Arrested on Warrant		Violation End Date	
Offense	265:4 II, DISOBEYING POLICE OFC	Violation on Or About	N
Degree	MISDEMEANOR	Fingerprint Supported	Y
Inchoate			
Special condition			
Comments			

Remove

Complaint as Filed Offense (CAFF)

Docket	464-2014-CR-00836	Violation Date	05/07/2014
Charge Id	941112C	Violation End Date	
Degree	MISDEMEANOR A	Inchoate	
Offense	265:4, Disobeying an Officer	Court	OSSIPEE-D
Comments			

*MUST Be Removed
A Void Charge*

47
48

Here, Amatucci was a party to the prosecution for speeding and disobeying a police officer. The finding of the Carroll County District Court that she was going 42 miles per hour in a 30 mile per hour zone is the same as the issue presented here. She had a full and fair opportunity to litigate and the finding was essential to the judgment. She does not have a right to relitigate the issue in this Court.

Accordingly, because there was probable cause to stop Amatucci for speeding, her claims for federal malicious prosecution and for state common law malicious prosecution fail.

NOT ARREST

B. Amatucci's "Monell" claim against the Town of Wolfeboro fails.

Amatucci repeatedly asserts that the Town of Wolfeboro and/or Town Officials in their official capacity are liable pursuant to Monell v. Department of Social Services, 436 U.S. 658 (1978). She alleges that, under the 4th Amendment, the Town is liable to her for malicious prosecution for speeding, because that prosecution was the effectuation of "de facto" municipal policies to ignore police misconduct and police misconduct complaints, and to violate her rights when she complained about the overall police department to town officers.

Under Monell, 436 U.S. at pp.690-691 (1978). "[l]ocal governing bodies...can be sued directly under Section 1983 for monetary, declaratory, or injunctive relief" for alleged constitutional violations arising from "a policy statement, ordinance, or regulation or decision officially adopted and promulgated by that body's officers."

State of New Hampshire

RECEIVED

CARROLL COUNTY County

SEP 11 2015

Justice Court

OSSIPEE
DISTRICT DIVISION

No.

MOTION FOR PUBLIC JURY TRIAL

VS.

The DEFENDANT moves as follows:

DATE DEMANDS A PUBLIC JURY TRIAL
SHE WAS ACCUSED OF A MISDEMEANOR A
DON'T MATTER THE CONVICTION.

I hereby certify that duplicates of this motion were:

☐ delivered

to:

Timothy Malen

☒ mailed

on

9/12/2015

Signed

Joseph J. Grant

Address

P.O. Box 272
Wolfeboro Falls, N.H. 03894

Telephone

MOTION

49

80

7/22/15

376

The STATE OF NEW HAMPSHIRE

SUPERIOR COURT

CARROLL, SS.

STATE

V.

464-CV-CR-00836

JOSEPHINE AMATECC.

MOTION FOR APPEAL

THE DEFENDANT IS DEMANDING AN APPEAL BEFORE ^{WITH} A PUBLIC JURY TRIAL NOT A BENCH TRIAL IN THE SUPERIOR COURT, AS SHE WAS ACCUSED OF A VIOLATION OF A MISDEMEANOR A.

Respectfully

JOSEPHINE AMATECC.

C. TIMOTHY HIGGINS

JULY 22, 2015

Josephine Amatecc

noted - no action required
8/6/15

50

81

387

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

CARROLL SS

CSC-AUG 6*15PM 2:38

State

v.

Josephine Amatucci

Case 464-2014-CR-00836

A DEMAND FOR A TRIAL BY A PUBLIC JURY

This is to advise the Superior court that the defendant is demanding a trial by a public jury.

The defendant was accused of a Misdemeanor A and immediately requested a trial by a public jury, which according to the law she should have been given a public jury trial without a bench trial in the District court. That according to the law she was railroaded by the district court, and that this case should be dismissed immediately as the court trespassed the law when they refused her a jury trial without a district court bench trial. The judge wanted to make sure she was convicted first so that she could never accuse the police of a malicious prosecution. The police violated my First Amendment Right when they retaliated because I accused the police of misconduct, and their plan was to 'get me' and stop me from reaching the Sheriff's office, that they knew I was on my way to the Sheriff's office to tell the Sheriff that the police chief Stuart Chase had just criminally threatened me in the police station because I asked him to

51
82

State of New Hampshire

RECEIVED

CARROLL COUNTY County

SEP 11 2015

DISTRICT Court
14CR836 No.

OSSIPEE
DISTRICT DIVISION

MOTION FOR PUBLIC JURY TRIAL

vs.

The DEFENDANT moves as follows:

STATE DEMANDS A PUBLIC JURY TRIAL
SHE WAS ACCUSED OF A MISDEMEANOR A
DOESN'T MATTER THE CONVICTION.

I hereby certify that duplicates of this motion were:

☐ delivered

to:

Timothy Mahon

☒ mailed

on

9/12/2015

Signed

Joseph G. Gauthier

Address

P.O. Box 272
Wolfeboro Falls, N.H. 03894

Telephone

Denied This Court has
no authority to provide a
"jury trial"
10/2/2015
Catherine Patten, Justice
3rd Circuit Court
MOTION
83
52
144

376

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

CARROLL, SS.

STATE

V.

JOSEPHINE AMATUCCI

464-CV-CR-00836

MOTION FOR APPEAL

THE DEFENDANT IS DEMANDING AN APPEAL BEFORE ^{WITH} A PUBLIC JURY TRIAL NOT A BENCH TRIAL IN THE SUPERIOR COURT, AS SHE WAS ACCUSED OF A VIOLATION OF A MISDEMEANOR A.

Respectfully

JOSEPHINE AMATUCCI

C. TIMOTHY HILSON

JULY 22, 2015

Josephine Amatucci

noted - no action required
8/6/15

84

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RECEIVED

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

SEP 11 2012

Court Name: 3rd Circuit - District Division - Ossipee

OSSIPPE
DISTRICT COURT

Case Name: _____

Case Number: 464-2003-CA-02408
(if known)**MOTION FOR: JUDGE TO SET ASIDE JUDGMENT OR (MANDATORY)**
ACCORDING TO ATTACHED PAPERS-The _____
states the following facts and requests the following relief:

YOUR HONOR: I THOUGHT IT WOULD BE EASIER IF YOU SAW
THE PAPERS ATTACHED. THAT YOU SAW THE NO-CONTACT ORDER.
THAT YOU SAW THAT THE ORDER WAS A CIVIL (MUTUAL) RESTRAINING
ORDER IN EQUITY. THEREFORE, YOU MUST (MANDATORY) SET ASIDE
YOUR ORDER TO ISSUE A WARRANT IN THIS CASE. IT WAS A
VOID JUDGMENT. A VOID ORDER. THAT YOU LACKED SUBJECT MATTER
JURISDICTION TO ISSUE A WARRANT, AND A WARRANT DOES NOT ISSUE
FOR A CIVIL MATTER. AS THE POLICE DO NOT HAVE AUTHORIZATION TO PROSECUTE
CIVIL MATTERS

Date 9/11/2012

Signature _____

Telephone _____

Address _____

I certify that on this date I mailed/delivered a copy of this document to:

or

(other party)

(other party's attorney)

Copy sent to Wolfeboro Police
DET. KEATON PUBLIC DEFENDER
Filed
ALL MOTIONS SENT
TO ABOVE

Date _____

Signature _____

ORDER☐ Motion granted.☐ Motion denied.

Recommended: _____

Date _____

Signature of Marital Master _____

Printed Name of Marital Master _____

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date 9.12.12

Signature of Judge _____

Printed Name of Judge Robert Varney

(54)
85

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

RECEIVED
SEP - 4 2012
DISTRICT COURT

Court Name: _____

Case Name: _____

Case Number:
(if known)

MOTION FOR: _____

The PLAINTIFF JOSEPHINE AMATUCCI
states the following facts and requests the following relief:

UPON FURTHER CONSIDERATION OVER THE WEEKEND, I NOW BELIEVE
THAT THE JUDGE IN HIS MOTION (ORDER) IS ACTUALLY STATING
THAT HE DID NOT ISSUE A WARRANT IN 2003.

WOULD THIS HONORABLE JUDGE (VARNY) PLEASE CLARIFY
IN A CLEAR STATEMENT, THAT HE DID NOT ISSUE A WARRANT
IN 2003 FOR MY ARREST AND DETENTION.

THANK YOU

Date

603-969-2429

Telephone

Signature

Address

Josephine Amatucci
P.O. Box 292, Wolfeboro Falls, N.H. 03896

I certify that on this date I mailed/delivered a copy of this document to:

James O'Brien, Lawyer Ransheim or
(other party)

(other party's attorney)

Date

Sept. 4, 2012

Signature

ORDER

☐ Motion granted.☐ Motion denied.

Recommended:

Date

So Ordered:

9.6.12

Date

Printed Name of Marital Master

Printed Name of Judge

THESE MOTIONS CONCERN A CASE, LONG
CLOSED, OVER WHICH THE COURT
DECLINED JURISDICTION. THE COURT
WILL ENTERTAIN NO FURTHER MOTIONS
ON THIS MATTER.

Signature of Marital Master

Signature of Judge

Robert Varny

50
86

MARKED A.G.

639

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

STATE

V.

JOSEPHINE AMATUCCI

CASE NO. 2015-0269

SUPPLEMENT TO BRIEF

That underARGUMENT.....I should have emphasized and stated, that my right to a jury trial is based on the theory of the United States Supreme Court where they state that a right to a jury trial is based on the penalty AUTHORIZED for the offense and NOT the penalty IMPOSED by the judge. That if the offense is a 'serious offense' where the penalty authorized by the statute is the possibility of jail time up to a year, more than 6 months, then you have a GUARANTEED RIGHT TO A JURY TRIAL ACCORDING TO THE CONSTITUTION. Under the federal Sixth Amendment and the State Fourteenth Amendment, under DUE PROCESS. And where the authorized penalty for Disobeying a Police Officer is up to a year in jail, it is a 'serious offense' and a jury trial is GUARANTEED. Therefore, the Defendant is asking that this Supreme Court either reverses her conviction or allow her a jury trial of her peers, according to the LAW.

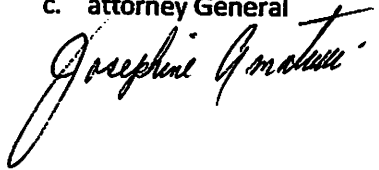
56
87

Respectfully,

Josephine Amatucci

January 22, 2016

c. attorney General

A handwritten signature in cursive script, reading "Josephine Amatucci". The signature is written in black ink and is positioned below the typed name.

4767

THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

CASE 449 (JADEEN)

Josephine Amatucci

v.

Town of Wolfeboro, Police Chief Dean Rondeau,

Steve Champaign, Robert Maloney, Sargeant

William Wright, prosecutors Judy Estes and

Timothy Morgan

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. 1983. Jurisdiction is founded upon 28 U.S.C. 1331 (1x3x4) and aforementioned statutory provision. Plaintiff further invokes the supplemental jurisdiction of the court under 28 U.S.C. 1367 (a) to hear and adjudicate state law claims.

PARTIES

2. Plaintiff Josephine Amatucci is a citizen of the United States and a resident of Wolfeboro, New Hampshire;

3. Police Chief Dean Rondeau, 251 S. Main Street, Wolfeboro, NH 03894, sued Individually;

4. Town of Wolfeboro, 84 South Main Street, P.O. Box 629, Wolfeboro, NH 03894 sue in Official Capacity;

5. Belnap Sheriff's Dept. 42 County Drive, Laconia, New Hampshire, 03246 official capacity;

6. Sargeant William Wright sued individually;

58
89

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

3rd Circuit - District Division - Ossipee
96 Water Village Rd., Box 2
Ossipee NH 03864

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

June 16, 2016

JOSEPHINE AMATUCCI
PO BOX 272
WOLFEBORO FALLS NH 03896

Case Name: **State v. Josephine Amatucci**
Case Number: **464-2014-CR-00836**

The following Order was entered regarding Defendant's "Motion Ordering Judge Patten to Remove My Conviction Immediately":

6/9/2016 - This judge has recused himself from any further matters or pleadings involving or filed by Ms. Amatucci.

Elaine J. Lowe
Clerk of Court

(464260)

C: Simon Robert Brown, ESQ

59



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY, DIVISION OF STATE POLICE
 33 Hazen Dr, Concord NH 03305 (603) 223-3867
CRIMINAL HISTORY RECORD



SID# NH644856

Name AMATUCCI, JOSEPHINE S

DOB 09/27/1938

POB	MA	Hair	Brown	Weight	165
Sex	F	Eye	Brown	Height	67
ADDR	PO BOX 272	Race	White	Prints	Y
	WOLFEBORO FALLS NH 03896	FBI	:548419AE4	Photo Available	Y
OLN		FPC		Palm Available	Y

Alias

Caution

Name

DOB

Code

Comments

Body Markings

Code

Description

Comments

Cycle 001

Arrest

Tracking #	TNH040140236	Agency	WOLFEBORO PD
Arrest Date	05/07/2014	Violation Date	05/07/2014
Arrested on Warrant		Violation End Date	
Offense	265:4 II, DISOBEYING POLICE OFC	Violation on Or About	N
Degree	MISDEMEANOR	Fingerprint Supported	Y
Inchoate			
Special condition			
Comments			

Complaint as Filed Offense (CAFF)

Docket	464-2014-CR-00836	Violation Date	05/07/2014
Charge Id	941112C	Violation End Date	
Degree	MISDEMEANOR A	Inchoate	
Offense	265:4, Disobeying an Officer	Court	OSSIPEE-D
Comments			

60
90

5247

FILED - USDC-NP
2020 DEC 16 PM 2:50

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci

20-cv-1194

v.

Judge Joseph Laplante

MOTION FOR JUDGE LAPLANTE TO
VOID THE SUMMARY JUDGMENT HE ALLOWED TO ATTORNEY MULLEN

1. The Plaintiff is asking that Judge laplante VOID the summry judgment of Mullen that he illegally allowed, which addressed the charge of disobeying a police officer, when the charge was VOIDED OF NO LEGAL FORCE under the Sixth amendment Speedy Trial Clause, when the police did not hold a trial within the legal limit of 70-90 days after they charged me. Therefore Judge Laplante you had no JURISDICTION , no legal right to allow charges that did not exist. That were VOID. Where PROBABLE CAUSE did not exist. And in doing so caused injury to the Plaintiff. When she was denied her motion for summary judgment.
2. As under the Sixth Amendment where the police did not hold a trial within 70-90 days after they initially charged and arrested her for disobeying a police officer, the charges and any ruling allowed by the 3rd circuit judge Patten

61
91

at a trial that was illegally held one year and 3 weeks after she was formerly charged and arrested, were automatically VOID OF NO LEGAL FORCE, under the Sixth Amendment Speedy Trial Clause.

3. Besides the fact that you yourself Judge Patten also had NO JURISDICTION to hear and rule on charges that were void of no legal force.

4. That you Judge Laplante had NO JURISDICTION to hear and allow Mullen's summary judgment which was based on the offense of disobeying a police officer that was legally VOID OF NO LEGAL FORCE, that under the Speedy Trial Clause did not exist, that was automatically voided after 70-90 days that the police had to hold a trial.

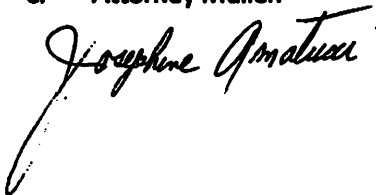
5. Therefore UNDER THE LAW Judge Laplante you must put in writing that the summary judgment allowed Mullen was an error and you must void it immediately, as required under the law.

Respectfully,

Josephine Amatucci

December 15, 2020

c. Attorney Mullen



U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIREUnited States District Court
District of New Hampshire

JAN 07 2019

FILED

JOSEPHINE AMORICI

V.

STUART CHASE, ET AL

Docket 1:18-cv-00237 U.S. DIST. COURT
SUB JUDICIAL COMPLAINT # 01-18-
90024ERROR OF COURT
RECONSIDERATION FACTSPlease put this in
File

Y. This Judge dismissed my Fourth Amendment claim stating that I was not arrested for speeding but only for the disobeying a police officer offense which was a lie, a lie a lie.

I proved with evidence that I was indeed arrested for speeding. And the 1 year & 1 month Detention is a Fourth Amendment Violation Prosecution. As the Police had no probable cause to arrest me, as speeding is not a crime in New Hampshire.

I also included evidence of a document which I have given another copy to Charley as this document was filed with my evidence but it is not on the Court's computer, so Charley was give another copy.

The Judge stated that I did not have a Monell case unless I proved a pattern of the Municipality, but the document I gave Charley shows ONE INCIDENT by a Police Officer of a violation of my civil rights constitutes a Monell claim. Besides all the evidence of the Town's refusing to investigate was evidence already in the files.

Therefore, this Judge is AGAIN RAILROADING me and he has lost all jurisdiction in this case. The Judge is corrupt to the core. He better release his denial of my claims or I will have you DISBARRED.

EXHIBIT 16

63

93

I HAVE A FOURTH AMENDMENT MALICIOUS PROSECUTION
AND A MONELL CLAIM AND THE COURT IS GOING TO ALLOW
MY CLAIMS. AS I HAVE BEEN STATING ALL ALONG A MONELL
CLAIM CAN INDEED BE UNDER A PATERN OR JR OR
ONE EVENT BY A POLICYMAKER SUCH AS POLICE CHIEF CHASE
AND PROSECUTOR TO CONSTITUTE A POLICY OF THE
MUNICIPALITY.

THERE IS GOING TO BE NO RESTRICTIONS WHATSOEVER
ON ANY OF THE CASE I FILED REGARDING CHASE, TOWN, OR
ANYONE ELSE IN THE 2014 EVENT.

I DON'T WANT TO EVER SEE YOU AGAIN, I WANT YOU
TO STEP DOWN AS YOU ARE PREJUDICE BY DENYING ME
THESE CLAIMS & TRYING TO RESTRICT ME FROM FILING
ANY MORE MOTIONS.

YOU ARE GOING TO HAVE ALL MY NEW CAUSES OF
ACTION TO MOVE FORWARD AS YOU LOST ALL JURISDICTION
AND THIS CASE IS NOT DISMISSED.

JOSEPHINE ANATUCCI
P.O. Box 272

JANUARY 7 2014
C. PRETI, FLAHERTY & RANSMEIER

EXHIBIT 16

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94

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

3rd Circuit - District Division - Ossipee
96 Water Village Rd., Box 2
Ossipee NH 03864

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

June 16, 2016

**JOSEPHINE AMATUCCI
PO BOX 272
WOLFEBORO FALLS NH 03896**

**Case Name: State v. Josephine AmatuCCI
Case Number: 464-2014-CR-00836**

The following Order was entered regarding Defendant's "Motion Ordering Judge Patten to Remove My Conviction Immediately":

6/9/2016 - This judge has recused himself from any further matters or pleadings involving or filed by Ms. AmatuCCI.

**Elaine J. Lowe
Clerk of Court**

(464260)

C: Simon Robert Brown, ESQ

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*This was MAILED & FILED BY HOLLER'S
LAW FIRM RANSMEIR*

*Page 1
SENT*

Case 1:15-cv-00356-JL Document 151 Filed 01/27/17 Page 1 of 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci,
Plaintiff,

v.

James O'Brien, et al,
Defendants.

Case No. 15-CV-00356-JL *VOID*

*NOW CASE 00237
DID A VOLUNTARY DISMISSAL*

*1/27/17
BINKA*

**DEFENDANT CHASE'S OBJECTION
TO PLAINTIFF'S MOTION FOR RECONSIDERATION (DOC 149) OF
JUDGE LAPLANTE'S ORDER (DOC 147) BASED ON THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION (DOC 142)**

Defendant Chase, through counsel, objects to plaintiff's Motion for Reconsideration (Doc 149) for the following reasons:

The plaintiff's Motion for Reconsideration is based on the premise that Judge Laplante misunderstood plaintiff's proposed claim regarding alleged malicious prosecution. There is no evidence the Judge misunderstood anything or that the claimed misunderstanding would have mattered. Rather, he approved the Magistrate Judge's Report and Recommendation (Doc 142) which lays out the bases in detail for denying plaintiff's proposed amendment as futile.

The plaintiff's Motion for Reconsideration also falsely argues that Judge Patten, in the criminal case against her, found no probable cause. On the contrary, there is no place in that Judge's order where he finds "no probable cause" expressly or impliedly. Ms. Amatucci was charged with speeding and failure to obey an officer. The judge in that case specifically found that Ms. Amatucci was driving 42 mph in a 30 mph zone and found that she failed to stop for police passing her for about four miles. See Defendants' Motion for Judgment on the Pleadings and exhibits to that motion. Thus, there was probable cause for her arrest and prosecution on

*The Judge LAPLANTE is trying to 1st say my arrest was ONLY
on the basis of the facts the District Attorney*

*66
OK*

1800 2

SENT

Case 1:15-cv-00356-JL Document 151 Filed 01/27/17 Page 2 of 3

BINGO

both speeding and failure to obey. The trial judge found that Ms. Amatucci was not guilty of speeding (even though she exceeded the speed limit by 12 mph) solely because the prosecutor failed to introduce evidence of road conditions that day. That does not mean that there was no probable cause for the arrest or the prosecution.

The prosecutor's failure to put in such evidence, or even Ms. Amatucci's success in beating the speeding violation, does not retroactively create lack of probable cause for the arrest and prosecution. In fact, the trial court found (and Ms. Amatucci is bound by collateral estoppel on that point), that she exceeded the speed limit by 12 mph. Moreover, the trial judge found that she failed to obey police officers pursuing her for almost four miles and that she was guilty of the crime she was charged with, failing to obey. Thus, the trial court's findings clearly establish the opposite of what Ms. Amatucci now argues. The trial judge's rulings, contrary to Ms. Amatucci's arguments, show there was, in fact, probable cause.

Moreover, as argued in defendant's original objection (doc 137), this proposed claim is barred both by res judicata and collateral estoppel for all the reasons argued in defendants' Motion for Judgment on the Pleadings (Doc 132).

While Judge Laplante has not yet ruled on the Magistrate Judge's Report and Recommendation (Doc 144), the Magistrate Judge's Report and Recommendation has proposed that the Court dismiss all plaintiff's claims against Chief Chase because those claims are barred by res judicata. The proposed malicious prosecution claim (whether under common law or as a Section 1983 claim) also would be barred by res judicata as it arises out of the same transaction or occurrence as the prior case, and thus, the proposed amendment would be futile. The claim,

¹ If Ms. Amatucci had not refused to stop, it is doubtful, however, that she ever would have been arrested for speeding alone.

C7

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Sent

Case 1:15-cv-00356-JL Document 130 Filed 11/07/16 Page 9 of 104

speed was unreasonable for the conditions and therefore, under NH statute, the state had failed to prove she was speeding. However, the court also found that she had an obligation to stop for the police, that she failed to do so for over 4 miles and that she was, therefore, guilty of failing to stop for the police. Admitted that plaintiff was validly arrested and prosecuted for speeding and failure to stop. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of whether the plaintiff was truly headed to the sheriff's office for any purpose, but it would not have mattered to them, and therefore deny those allegations. Defendants deny all the remaining allegations of paragraph 9. Also see the response, above, to Paragraph 7.

AND

Defendant O'Brien further specifically denies all the allegations against him. His involvement in this matter, contrary to the plaintiff's false and groundless allegations, was extremely limited. Mr. O'Brien responded, as he was legally required to do, to a call from police dispatch that Ms. Amatucci was causing a disturbance at the Town offices. By the time Ofc. O'Brien arrived at the Town offices, Ms. Amatucci had already left. Mr. O'Brien's sole involvement after that was to make a radio call back to police dispatch confirming that Ms. Amatucci was no longer at Town Hall. O'Brien did not make a phone call to Ofc. Emerson, did not call the Sheriff's Department and did not request anyone to chase or stop or arrest Ms. Amatucci. He was not in any way involved in the pursuit of Ms. Amatucci and was not present when she was pursued, stopped or arrested. After Ms. Amatucci was arrested and taken away, Officer O'Brien went to the location of Ms. Amatucci's car to relieve Chief Chase so that Chief Chase did not have to wait for the tow truck to arrive. As to the statement in the police log about Ofc. Emerson trying to stop "her," that was not a quote of Ofc. Emerson's police call to dispatch, but rather a conflation in the log prepared by the dispatcher, William Riley, of Emerson's statement that he was turning around to chase a speeding car (which he did not know was Ms. Amatucci). Officer

This verifies my entire Fourth Amendment claim - I WAS UNLAWFULLY ARRESTED

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Exhibit D
JUN 29 2015

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

3rd Circuit - District Division - Ossipee
96 Water Village Rd., Box 2
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June 26, 2015

**SIMON ROBERT BROWN, ESQ
PRETI FLAHERTY BELIVEAU & PACHIOS PLLP
57 NORTH MAIN STREET
PO BOX 1318
CONCORD NH 03302-1318**

Case Name: State v. Josephine Amatucci
Case Number: 464-2014-CR-00836

Enclosed please find a copy of the order rendered by the Court.

Elaine J. Lowe
Clerk of Court

(3)

C: Josephine Amatucci; Wolfeboro Police Department; Timothy Morgan, Esq.

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MULLEN'S MOTION FOR SUMMARY JUDGMENT

per hour zone, is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. *SENT*

Given that Officer Emerson's radar unit showed that Amatucci was exceeding the posted speed limit by 12 miles per hour, he had probable cause to stop her.

The fact that Amatucci was later acquitted of the charge of speeding because the Court determined that she was not traveling at a speed that was unreasonable and imprudent for the conditions existing has no bearing on whether or not there was probable cause. The fact that she exceeded the posted speed limit is enough to provide a reasonable officer with reason to charge Amatucci with speeding. *GOOD FAITH NOT ENOUGH*

Accordingly, Officer Emerson is entitled to qualified immunity.

Former Chief Chase did not participate at all in the arrest for speeding. Former Chief Chase came upon the scene after Amatucci had been arrested by Officer Emerson and charged with the offense of speeding and with the offense of disobeying a police officer. He did not participate in the arrest of Amatucci, nor did he participate in the prosecution. He did not provide any instructions or guidance to Officer Emerson relative to his pursuit of Amatucci and the subsequent prosecution for speeding.

Accordingly, because there are no facts provided by Amatucci that showed former Chief Chase participating in the arrest, he is not liable at all for the claims asserted by her. The fact that he showed up at the scene after the fact does not mean that he had anything to do with the arrest. Moreover, because she had

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

Carroll County

3rd Circuit Court-District Division

IN RE: STATE OF NEW HAMPSHIRE V. JOSEPHINE AMATUCCI

464-2014-CR-00836

ORDER AFTER TRAIL ON THE MERITS

This matter came on for a trial on the merits of two complaints entered against the defendant. The State and defendant participated. After due consideration of the testimony and other evidence submitted, as well as the court's view of the roadway area involved, the court enters the following findings of fact, rulings of law and order. The defendant is found NOT GUILTY of the violation offense of speeding, complaint and GUILTY of the class B misdemeanor for disobeying a police officer.

The State entered two complaints against the defendant. The violation level offense alleges an event of what is commonly referred to as speeding. The specific allegations are that on May 7, 2014, the defendant drove her vehicle on a way, identified as Center Street, Wolfeboro, NH, at a speed greater than was reasonable and prudent under the conditions prevailing, and specified that defendant was traveling at a speed of 42 mile per hour, when the prima [sic] "facie" lawful speed at the time and place of violation being 30 mph. The class B misdemeanor offense alleges that on the same date and location, while operating her motor vehicle, she purposely neglected to stop when signaled to stop by law by a law enforcement officer, who was in a fully marked police cruiser and who signaled defendant to stop by use of emergency lights and sirens.

The evidence presented at trial shows, beyond a reasonable doubt, that defendant was operating her motor vehicle on a public way in New Hampshire, being Center Street in Wolfeboro, NH, on May 7, 2015. The evidence also shows that the officer who filed the complaint was a certified radar operator and that the radar unit in the officer's cruiser was certified and still within the certification period when the event occurred. The officer testified that he checked on the operational accuracy of the radar unit in his

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cruiser by using preset tuning forks, both before and after his shift, and found determined the radar unit to be operating properly and accurately.

The evidence presented through the officer's testimony shows that he was traveling toward the downtown area of Wolfeboro on Center Street, and was advised by dispatch that the person of interest involved in the incident he was responding to had left that location. It is shown by dispatch log, State's exhibit 7, that the officer had been advised of description of the defendant's car. Although he testified that he was not on the look-out for her, it is reasonable to infer that he was indeed on the look-out for the defendant. The dispatch log, State's Exhibit 7, appears to support this inference.

The officer testified that when he was near what is commonly referred to as the "Mast Landing" area, he observed a vehicle come around the curve which appeared to be speeding. He testified that he activated his radar at a point that two vehicles were in the radar's range of interception. The radar picked up the signal from the car moving the fastest. It was ultimately determined that vehicle was driven by the defendant and the radar readout showed that defendant was traveling 42 miles per hour in a posted 30 mile per hour zone. This area, showing the officer's point of view, is depicted on the two photographs entered as State's exhibit 6.

It is at this point that the officer advised dispatch that he was "attempting to stop her on Center Street" and gives dispatch the defendant's license plate number. Exhibit 7 at 1252. At 1253, the officer advises dispatch that the "reason for the stop was 42 in a 30 by Mast Landing". Exhibit 7. Clearly the implication of this exchange is that the officer knew that the vehicle he observed was the defendant and he was going to try and stop her. In his testimony, it also appeared that the officer was saying that he was also communicating with dispatch via his cell phone about who he should be pursuing.

SET-UP

The officer testified that he activated his blue strobe lights and siren on his cruiser, pulled into the Mast Landing parking lot to turn around and began to pursue the defendant. The defendant continued to travel northbound on Center Street, Route 28, albeit apparently not speeding along the way, for approximately four miles, before she pulled over in response to a Carroll County Sheriff's Department standing in the road and signaling her to stop.

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There was some conflicting evidence presented in the officer's report which referred to two cars being situated ahead of the defendant's vehicle, whereas in his testimony, he stated that there only two cars, of which defendant was one, and the one that was traveling the fastest. Otherwise, there was no specific testimony about the road or whether conditions, the amount of traffic on the road generally, or on any side street, any pedestrian activity, or any other specific evidence of actual or potential hazards under those circumstances on the date and time of the alleged offense. The court's view of the location where defendant is alleged to have been speeding shows a well-traveled, narrow roadway, with multiple intersecting streets and driveways, but a clear view of the roadway ahead in either direction for some distance.

RSA 265:60, I prohibits operating a vehicle on a way at a speed which is greater than reasonable and prudent under the conditions and having regard to actual and potential hazards then existing. Subsection II of RSA 265:60 provides that the speed of a vehicle in excess of the limit specified, in this case, 42 miles per hour in the posted 30 miles per hour zone, "shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful." Here we have the seemingly conflicting evidence of no specific conditions presented that there were actual or potential hazards at that place and time that the defendant was traveling 12 miles per hour over the posted speed limit, but that that speed is prima facie unreasonable and imprudent. This conflicting evidence leaves the court with no basis for a finding, beyond a reasonable doubt, that the defendant was traveling at a speed which was unreasonable and imprudent for the conditions existing, having in mind the actual and potential hazards associated with those conditions. Therefore, there must be a finding of not guilty.

As to the complaint alleging the class B misdemeanor for disobeying a police officer, RSA 265:4, I, (c) instructs that while driving a vehicle, no person shall purposely neglect to stop when signaled to stop by any law enforcement officer who signals the person to stop by means of audible or visual emergency warning signals. Clearly the evidence presented shows, beyond a reasonable doubt, that the defendant did not stop when signaled to do so by the officers, using his emergency warning lights and siren, for upwards to a 4 mile distance. While there is no direct evidence of the defendant's state of mind

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presented, the circumstances presented by the evidence allows for no other conclusion than that the defendant acted purposefully in choosing to not stop as directed by the officer. Therefore, she is found guilty of the charge of disobeying a police officer.

While the specific statute specifies that a person who violates the provisions of RSA 265:4, I, (c) shall be guilty of a class A misdemeanor, the State made the choice before the beginning of trial to prosecute the matter as a class B misdemeanor, even after the defendant had had the benefit of a court appointed counsel through portions of the pre-trial proceedings, and then discharged her counsel by her own choice, and pursued the matter as a self-presented defendant.

The clerks' office will scheduled the matter for a sentencing hearing on the class B misdemeanor conviction for disobeying a police officer.

So Ordered.

Date

6/25/2015

Judge

James R. Patten, Justice
3rd Circuit Court

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officer. See Thompson Rpt. ("[Sgt. Thompson] told [Mrs. Amatucci] that she had been arrested for disobeying a police officer" and that likely she would be taken to jail."). Once Mrs. Amatucci was transported to the CCHC, the bail commissioner set bond on the charge of disobeying a police officer. See Bond in Crim. Case. (listing "Offense(s) Charged" as "Disobey an Officer, Failure to Stop"). In other words, none of the Fourth Amendment-implicating events in this case concerned the speeding charge that she challenges in this case; her arrest, very brief detention and personal recognizance bail conditions all attended, instead, to her disobeying an officer charge, of which she was convicted.

While Mrs. Amatucci has alleged that she was also actually arrested for speeding (as opposed to simply cited), and then jailed and subjected to bail conditions on that charge, she has not supported that assertion with any submission of evidentiary quality. Significantly, every item of record evidence, see Bond in Crim. Case; Thompson Rpt., and admissible testimony connect Mrs. Amatucci's arrest and what followed to the disobeying charge, and more of that evidence mentioned or otherwise involved or implicated the probable cause-supported, see Part II, supra, speeding violation. Accordingly, Mrs. Amatucci has failed to demonstrate that her arrest, incarceration, and

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ONE YEAR
& 3 WEEKS
→

FRAUD
IT WAS IN
MULLEN'S
MOTION FOR
SUMMARY
JUDGMENT
→

THE CONVICTION WAS ON VOIO CHARGES & THE JUDGE
HAD NO JURISDICTION TO CONVICT VOIO CHARGES

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

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June 16, 2016

**JOSEPHINE AMATUCCI
PO BOX 272
WOLFEBORO FALLS NH 03896**

**Case Name: State v. Josephine AmatuCCI
Case Number: 464-2014-CR-00836**

The following Order was entered regarding Defendant's "Motion Ordering Judge Patten to Remove My Conviction Immediately":

6/9/2016 - This judge has recused himself from any further matters or pleadings involving or filed by Ms. AmatuCCI.

Elaine J. Lowe
Clerk of Court

(464260)

C: Simon Robert Brown, ESQ

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Case 1:17-cv-00267-JL Document 138-1 Filed 07/26/18 Page 14 of 16

per hour zone, is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

Given that Officer Emerson's radar unit showed that Amatucci was exceeding the posted speed limit by 12 miles per hour, he had probable cause to stop her.

The fact that Amatucci was later acquitted of the charge of speeding because the Court determined that she was not traveling at a speed that was unreasonable and imprudent for the conditions existing has no bearing on whether or not there was probable cause. The fact that she exceeded the posted speed limit is enough to provide a reasonable officer with reason to charge Amatucci with speeding.

GOOD FAITH NOT ENOUGH

Accordingly, Officer Emerson is entitled to qualified immunity.

Former Chief Chase did not participate at all in the arrest for speeding. Former Chief Chase came upon the scene after Amatucci had been arrested by Officer Emerson and charged with the offense of speeding and with the offense of disobeying a police officer. He did not participate in the arrest of Amatucci, nor did he participate in the prosecution. He did not provide any instructions or guidance to Officer Emerson relative to his pursuit of Amatucci and the subsequent prosecution for speeding.

Accordingly, because there are no facts provided by Amatucci that showed former Chief Chase participating in the arrest, he is not liable at all for the claims asserted by her. The fact that he showed up at the scene does not mean that he had anything to do with the arrest.

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THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

CARROLL, SS.

Town of Wolfeboro

v.

Josephine Amatucci

Case No. 212-2015-CV-00090

PLAINTIFF'S SUPPLEMENTAL POST-TRIAL MEMORANDUM

At the trial in this matter on April 13, 2016, Plaintiff Town of Wolfeboro submitted evidence of two matters now pending in the United States District Court ("USDC") based on the Defendant's arrest on May 7, 2014 for speeding and failure to obey police officers. See Exhibits 99-101 and 105 (pp. 40-41). Subsequent to the trial and the filing of Plaintiff's Post-Trial Memorandum, Plaintiff has become aware of three additional lawsuits that Defendant has filed in USDC that are relevant to the issues in this case and which may be of aid to this Court. The three additional cases are as follows:

1. Josephine Amatucci v. Stuart Chase, Wolfeboro Police Department and Town of Wolfeboro (16-cv-00206-SM) filed on April 11, 2016;
2. Josephine Amatucci v. Greg Dube (16-cv-00207-JD) filed on April 28 2016; and
3. Josephine Amatucci v. Stuart Chase (Police Chief) and Wolfeboro Police Department (16-cv-00208-JL) filed on May 5, 2016.

All five cases are still pending in USDC, awaiting orders of notice or other disposition.

Copies of Defendant's three additional Complaints filed in USDC (without the voluminous attachments thereto) are attached hereto as Exhibits A, B and C. The first case is a suit for damages against the Wolfeboro Police Chief, the Wolfeboro Police Department and the Town based upon the events of May 7, 2014. Defendant had already filed several cases in this

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11.2.17

Case 1:17-cv-00287-JL Document 133-1 Filed 07/26/18 Page 14 of 16

per hour zone, is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

Given that Officer Emerson's radar unit showed that Amatucci was exceeding the posted speed limit by 12 miles per hour, he had probable cause to stop her.

The fact that Amatucci was later acquitted of the charge of speeding because the Court determined that she was not traveling at a speed that was unreasonable and imprudent for the conditions existing has no bearing on whether or not there was probable cause. The fact that she exceeded the posted speed limit is enough to provide a reasonable officer with reason to charge Amatucci with speeding.

GOOD FAITH NOT ENOUGH

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Former Chief Chase came upon the scene after Amatucci had been arrested by Officer Emerson and charged with the offense of speeding and with the offense of disobeying a police officer. He did not participate in the arrest of Amatucci, nor did he participate in the prosecution. He did not provide any instructions or guidance to Officer Emerson relative to his pursuit of Amatucci and the subsequent prosecution for speeding.

Accordingly, because there are no facts provided by Amatucci that showed former Chief Chase participating in the arrest, he is not liable at all for the claims asserted by her. The fact that he showed up at the scene after the fact does not mean that he had anything to do with the arrest. Moreover, because she had

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7/2/15

STATE OF NEW HAMPSHIRE

CARROLL COUNTY, SS

3RD CIRCUIT – DISTRICT DIVISION - OSSISPEE

Docket No. 464-2014-CR-00836

RECEIVED

State of NH

JUL 02 2015

v.

Josephine Amatucci

**STATE'S OBJECTION TO DEFENDANT'S "MOTION REQUESTING ... PUBLIC ...
JURY TRIAL AND NO 'BEYOND A REASONABLE DOUBT TO CONVICT..."**

NOW COMES the State of New Hampshire, by and through its attorneys, Preti Flaherty PLLP, and respectfully submits the within Objection to Defendant's Motion Requesting ... Public... Jury Trial and No "Beyond a Reasonable Doubt to Convict..." In support of its Objection, the State says as follows:

1. Following a bench trial, Defendant was convicted of Disobeying a Police Officer and found not guilty of Speeding.

2. In the instant pleading, Defendant requests the Court to reverse her conviction.

3. For the reasons outlined in the State's Bench Memorandum and based on the evidence presented at trial, the State proved the Disobeying a Police Officer charge beyond a reasonable doubt, she was not justified in failing to stop her vehicle, and there are no grounds for the Court to reverse its ruling.

JUDGE HAD NO JURISDICTION TO RULE ON VOID CHARGES UNDER THE 6TH AMEND.

WHEREFORE, for the reasons set forth above, the State respectfully requests this

Honorable Court to:

A. Deny Defendant's Motion;

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HIS

IV. FINAL POLICYMAKERS

In *Pembaur v. City of Cincinnati*, the Court held that a single decision by an official with policymaking authority in a given area could constitute official policy and be attributed to the government itself under certain circumstances.¹⁷⁶ Thus, in *Pembaur*, the county could be held liable for a single decision by a county prosecutor, which authorized an unconstitutional entry into the plaintiff's clinic.¹⁷⁷ With respect to municipal liability based on acts or decisions of final policymakers, the Court has made clear that who constitutes a final policymaker is a question of state law.¹⁷⁸ A final policymaker will generally be someone whose decisions are not subject to review by another official or governmental body.¹⁷⁹ Therefore, if there is any kind of review of an individual's decision, that individual is not the final policymaker.¹⁸⁰ Furthermore, one might be a final policymaker in one context and not in another. For example, in *Ar-*

¹⁷⁶ 475 U.S. 469, 470 (1986).

¹⁷⁷ *Id.* at 485. See also *Welch v. Ciampa*, 542 F.3d 927, 942 (1st Cir. 2008) ("We are bound by *Pembaur* and conclude that a single decision by a final policymaker can result in municipal liability.").

¹⁷⁸ *City of St. Louis v. Praprotnik*, 485 U.S. 112, 123 (1988).

¹⁷⁹ See generally *McMillian v. Monroe County*, 520 U.S. 781, 785-86 (1997). See also *Hill v. Borough of Kutztown*, 455 F.3d 225, 246 (3d Cir. 2006) (arguing the mayor's constructive discharge of plaintiff was final in the sense that it was not reviewable by any other person or any other body or agency in the Borough).

¹⁸⁰ See, e.g., *Quinn v. Monroe County*, 330 F.3d 1320-26 (11th Cir. 2003) ("Because the Career Service Council has the power to reverse any termination decision made by Roberts, he is not a final policymaker with respect to termination decisions at the library."); *Tharling v. City of Port Lavaca*, 329 F.3d 422, 427 (5th Cir. 2003) (finding that a local law requiring approval of City Council for employment decisions made by City Manager rendered City Council the final policymaker); *Gernetzke v. Kenosha Unified School District No. 1*, 274 F.3d 464, 468 (7th Cir. 2001) ("The question is whether the promulgator, or the actor, as the case may be—in other words, the decisionmaker—was at the apex of authority for the action in question.").

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Case 1:15-cv-00356-JL Document 130 Filed 11/07/16 Page 9 of 104

speed was unreasonable for the conditions and therefore, under NH statute, the state had failed to prove she was speeding. However, the court also found that she had an obligation to stop for the police, that she failed to do so for over 4 miles and that she was, therefore, guilty of failing to stop for the police. Admitted that plaintiff was validly arrested and prosecuted for speeding and failure to stop. Defendants deny knowledge or information sufficient to form a belief as to the truth or falsity of whether the plaintiff was truly headed to the sheriff's office for any purpose, AND but it would not have mattered to them, and therefore deny those allegations. Defendants deny all the remaining allegations of paragraph 9. Also see the response, above, to Paragraph 7. Defendant O'Brien further specifically denies all the allegations against him. His involvement in this matter, contrary to the plaintiff's false and groundless allegations, was extremely limited. Mr. O'Brien responded, as he was legally required to do, to a call from police dispatch that Ms. Amatacci was causing a disturbance at the Town offices. By the time Off. O'Brien arrived at the Town offices, Ms. Amatacci had already left. Mr. O'Brien's sole involvement after that was to make a radio call back to police dispatch confirming that Ms. Amatacci was no longer at Town Hall. O'Brien did not make a phone call to Off. Emerson, did not call the Sheriff's Department and did not request anyone to chase or stop or arrest Ms. Amatacci. He was not in any way involved in the pursuit of Ms. Amatacci and was not present when she was pursued, stopped or arrested. After Ms. Amatacci was arrested and taken away, Officer O'Brien went to the location of Ms. Amatacci's car to relieve Chief Chase so that Chief Chase did not have to wait for the tow truck to arrive. As to the statement in the police log about Off. Emerson trying to stop "her," that was not a quote of Off. Emerson's police call to dispatch, but rather a conflation in the log prepared by the dispatcher, William Riley, of Emerson's statement that he was turning around to chase a speeding car (which he did not know was Ms. Amatacci). Officer

THIS VERIFIES MY ENTIRE FOURTH ALLEGATION
CLAIM - I WAS UNLAWFULLY ARRESTED
FOR SPEEDING.

8-2

HIS

Case 1:15-cv-00356-JL Document 151 Filed 01/27/17 Page 2 of 3

both speeding and failure to obey.¹ The trial judge found that Ms. Amatucci was not guilty of speeding (even though she exceeded the speed limit by 12 mph) solely because the prosecutor failed to introduce evidence of road conditions that day. That does not mean that there was no probable cause for the arrest or the prosecution.

The prosecutor's failure to put in such evidence, or even Ms. Amatucci's success in beating the speeding violation, does not retroactively create lack of probable cause for the arrest and prosecution. In fact, the trial court found (and Ms. Amatucci is bound by collateral estoppel on that point), that she exceeded the speed limit by 12 mph. Moreover, the trial judge found that she failed to obey police officers pursuing her for almost four miles and that she was guilty of the crime she was charged with, failing to obey. Thus, the trial court's findings clearly establish the opposite of what Ms. Amatucci now argues. The trial judge's rulings, contrary to Ms. Amatucci's arguments, show there was, in fact, probable cause.

*SPEEDING
IS NOT A
CRIME IN
NJ.*

Moreover, as argued in defendant's original objection (doc 137), this proposed claim is barred both by res judicata and collateral estoppel for all the reasons argued in defendants' Motion for Judgment on the Pleadings (Doc 132).

While Judge Laplante has not yet ruled on the Magistrate Judge's Report and Recommendation (Doc 144), the Magistrate Judge's Report and Recommendation has proposed that the Court dismiss all plaintiff's claims against Chief Chase because those claims are barred by res judicata. The proposed malicious prosecution claim (whether under common law or as a Section 1983 claim) also would be barred by res judicata as it arises out of the same transaction or occurrence as the prior case, and thus, the proposed amendment would be futile. The claim,

*(83)
H3*

¹ If Ms. Amatucci had not refused to stop, it is doubtful, however, that she ever would have been arrested for speeding alone.

MR

764

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

State

v.

Josephine Amatucci

Docket 015-0562

THE FEDERAL RIGHT TO A JURY TRIAL

1. Where this case is dealing with an infringement of my liberty interest in taking away my right to drive if there is another traffic violation, a jury trial is MANDATED under the FEDERAL sixth, Seventh, Ninth and 14th Amendment and Article 15, Part 1 of the NH Constitution. In Case v. Case, 121 NH 647 (1981), the United States Supreme Court discussed basic rights of man. That the right to drive, liberty rights is a natural, inherent, and essential right in the Due Process Clause of the Fourteenth Amendment, the EQUAL PROTECTION CLAUSE of the 14th amendment.
2. The FUNDAMENTAL LOSS OF A LIBERTY INTERESTtriggers the right to a jury determination on the merits. Daley v. Kennett, 75 N.H. 536, 540 Employers Assurance Co. v. Tibbetts, 96 N.H. 296, Hampton v. Palmer, 99 N.H. 143, 145, Lakeman v. LaFrance, 102 N.H. 300 (1959).
3. Because of the loss of a liberty interest, the right to access the courts, the civil nature of the proceeding is irrelevant in cases where there is a FUNDAMENTAL

84
114

LOSS OF A LIBERTY INTEREST, where there is a constitutional question, a jury trial is
MANDATED.

4. The NH Constitution, Article 15, Part 1, states:

"No subject shall be deprived of property, immunities, or privileges, put out of the
protection of the law, exiled or deprived of his life, LIBERTY,

BUT BY THE JUDGMENT OF HIS PEERS, OR THE LAW OF THE LAND"

5. Therefore, according to Federal Law, a jury trial of her peers is MANDATED and the
defendant is mandating a jury trial.

Respectfully,

Josephine Amatucci

April 24, 2016

c. Attorney General

85
115

THE STATE OF NEW HAMPSHIRE

CARROLL, SS

SUPERIOR COURT

IN RE: JOSEPHINE AMATUCCI

(Circuit Court Docket Number 464-2014-CR-00836)

ORDER

On August 23, August 29, and September 1, 2016, Josephine Amatucci ("Amatucci") presented the Superior Court with three pleadings and corresponding attachments. All three of her pleadings address her request for an expedited jury trial regarding an incident that occurred in the Spring of 2014. The matter went to trial, heard by Circuit Court (Patten, J.) in June 2014.

Amatucci was found not guilty in the Circuit Court on one count of speeding and guilty of one count of disobeying an officer. The disobeying an officer charge was initially brought as a class A misdemeanor. Ms. Amatucci was sentenced to a monetary fine, to be suspended for one year conditioned upon good behavior, as well as a suspended driver's license and a suspended motor vehicle registration. Both suspensions were held in abeyance for one year conditioned upon good behavior.

In April 2016, the New Hampshire Supreme Court issued an Order in this case - affirming Amatucci's conviction. See, State of New Hampshire v. Josephine Amatucci, No. 2015-0562 (April -, 2016). The Supreme Court unanimously affirmed the Circuit Court's decision. For the above stated reasons, Amatucci is barred from a jury trial in the Superior Court.

86

116

Further filings in this court asserting a request for a jury trial on the 2014 conviction will not be docketed.

SO ORDERED.

10/4/16
Date

hellooo - it was the 2015
JURY TRIAL -
VIOLATION OF SPEEDY TRIAL CLAUSE

Amy Ignatius
Hon. Amy L. Ignatius
Presiding Justice

Amy L. Ignatius
Presiding Justice

87
117

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THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci

v.

Stuart Chase, et al

Case 17-cv-237

REVERSE THE COVICTION
UNDER THE LAW

1. This claim a violation of the Sixth Amendment Speedy Trial Act has been before this court in a timely manner, and was NOT DECIDED IN A MERITORIOUS DECISION. Because she was unlawfully seized for a trial which was a violation of the Speedy Trial Act, the conviction for disobeying a police officer is VOID OF NO LEGAL FORCE and this Court is MANDATED to reverse this conviction.
2. That therefore this court is mandated to reverse the conviction for disobeying a police officer that was unlawfully determined on June 25, 2015, and is mandated UNDER THE LAW to allow her malicious prosecution claim to move forward in a jury trial of her peers for damages under 1983, for a malicious prosecution when the

88
118

IV. FINAL POLICYMAKERS

In *Pembaur v. City of Cincinnati*, the Court held that a single decision by an official with policymaking authority in a given area could constitute official policy and be attributed to the government itself under certain circumstances.¹⁷⁶ Thus, in *Pembaur*, the county could be held liable for a single decision by a county prosecutor, which authorized an unconstitutional entry into the plaintiff's clinic.¹⁷⁷ With respect to municipal liability based on acts or decisions of final policymakers, the Court has made clear that who constitutes a final policymaker is a question of state law.¹⁷⁸ A final policymaker will generally be someone whose decisions are not subject to review by another official or governmental body.¹⁷⁹ Therefore, if there is any kind of review of an individual's decision, that individual is not the final policymaker.¹⁸⁰ Furthermore, one might be a final policymaker in one context and not in another. For example, in *Ar-*

¹⁷⁶ 475 U.S. 469, 470 (1986).

¹⁷⁷ *Id.* at 485. See also *Welch v. Ciampa*, 542 F.3d 927, 942 (1st Cir. 2008) ("We are bound by *Pembaur* and conclude that a single decision by a final policymaker can result in municipal liability.").

¹⁷⁸ *City of St. Louis v. Praprotnik*, 485 U.S. 112, 123 (1988).

¹⁷⁹ See generally *McMillian v. Monroe County*, 520 U.S. 781, 785-86 (1997). See also *Hill v. Borough of Kutztown*, 455 F.3d 225, 246 (3d Cir. 2006) (arguing the mayor's constructive discharge of plaintiff was final in the sense that it was not reviewable by any other person or any other body or agency in the Borough).

¹⁸⁰ See, e.g., *Quinn v. Monroe County*, 330 F.3d 1320-26 (11th Cir. 2003) ("Because the Career Service Council has the power to reverse any termination decision made by Roberts, he is not a final policymaker with respect to termination decisions at the library."); *Tharling v. City of Port Lavaca*, 329 F.3d 422, 427 (5th Cir. 2003) (finding that a local law requiring approval of City Council for employment decisions made by City Manager rendered City Council the final policymaker); *Gernetzke v. Kenosha Unified School District No. 1*, 274 F.3d 464, 468 (7th Cir. 2001) ("The question is whether the promulgator, or the actor, as the case may be—in other words, the decisionmaker—was at the apex of authority for the action in question.").

89
119

Document 190

Filed 12/27/18 Page 24 of 25

The undisputed record in this case demonstrates that the defendants had probable cause to stop Mrs. Amatuucci's car for speeding on May 7, 2014, and thus, she cannot succeed on a claim of a violation of her Fourth Amendment right not to be maliciously prosecuted for that speeding offense. Accordingly, and without the necessity of analyzing the second prong of the qualified immunity analysis, defendants are entitled to qualified immunity in regard to the malicious prosecution claims in this case.

Conclusion

For the foregoing reasons, finds that the defendants have "affirmatively demonstrate[d] that there is no evidence in the record to support a judgment" in Mrs. Amatuucci's favor as to her malicious prosecution claim. Celotex Corp., 477 U.S. at 332. Accordingly, the court enters the following Order:

1. The court's September 24, 2018 endorsed order incorrectly identifies the defendants' summary judgment motion as Document No. 139. The clerk's office is directed to amend that endorsed order in the docket of this case to reflect that the defendants' motion for summary judgment is Document No. 138.

WHAT ABOUT PROBABLE CAUSE
TO ARREST FOR SPEEDING
FOURTH AMENDMENT
NOT STOP
FRAUD

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci

v.

Civil No. 17-cv-237-JL

Stuart Chase, Shane Emerson, and
the Town of Wolfeboro

O R D E R

Before the court are the parties' cross-motions for summary judgment. After consideration of the filings and oral argument,¹ the court denies Plaintiff Josephine Amatucci's motion for summary judgment (Doc. No. 123) and grants Defendants' motion for summary judgment (Doc. No. 138).² *MULLEN'S SUMMARY JUDGMENT WAS BASED ON CHARGES THAT DID NOT EXIST. FRAUD*

¹In addition to the parties' summary judgment motions (Doc. Nos. 123, 138), the summary judgment record includes: Pl.'s Resp. to Defs.' Obj. to Pl.'s Mot. Recon. (Doc. No. 135), Defs.' Obj. to Pl.'s Mots. Summ. J. (Doc. No. 139), Pl.'s Resp. to Defs.' Mot. Summ. J. (Doc. No. 140), Defs.' Resp. to Pl.'s Obj. to Defs.' Mot. Summ. J. (Doc. No. 143), Pl.'s Surreply to Defs.' Resp. to Pl.'s Obj. to Defs.' Mot. Summ. J. (Doc. No. 145), Pl.'s Resp. to Defs.' Obj. to Pl.'s Mot. Recon./Pl.'s Mot. Summ. J. (Doc. No. 148), and Pl.'s Mot. Summ. J. (Doc. No. 170).

²On September 24, 2018, the court issued the following Endorsed Order: "After today's oral argument, the plaintiff's motion for summary judgment (Doc. No. 123) is denied. Her prior motion for summary judgment (Doc. No. 109) was withdrawn. The defendants' motion for summary judgment (Doc. No. 139) is granted. Written order to follow." That endorsed order inadvertently identified the defendants' motion for summary judgment as "Doc. 139." The clerk's office is directed to amend the court's September 24, 2018 Endorsed Order to reflect that the defendants' motion for summary judgment is Document No. 138.

Summary Judgment Standard

"The purpose of summary judgment is to enable a court 'to pierce the boilerplate of the pleadings and assay the parties' proof in order to determine whether trial is actually required.'" Fernández-Salicrup v. Figueroa-Sancha, 790 F.3d 312, 328 (1st Cir. 2015) (citation omitted). "Summary judgment is warranted if the record, construed in the light most flattering to the nonmovant, 'presents no genuine issue as to any material fact and reflects the movant's entitlement to judgment as a matter of law.'" Lawless v. Steward Health Care Sys., LLC, 894 F.3d 9, 20-21 (1st Cir. 2018) (citation omitted); see Fed. R. Civ. P. 56(a)). At summary judgment, "[a]n issue is 'genuine' if the evidence would enable a reasonable factfinder to decide the issue in favor of either party." Irobe v. U.S. Dep't of Agric., 890 F.3d 371, 377 (1st Cir. 2018). "A fact is 'material' when its (non)existence could change a case's outcome." Mu v. Omni Hotels Mgmt. Corp., 882 F.3d 1, 5 (1st Cir. 2018), rev. denied, 885 F.3d 52 (1st Cir. 2018).

To obtain summary judgment, "[t]he moving party must affirmatively demonstrate that there is no evidence in the record to support a judgment for the nonmoving party." Celotex Corp. v. Catrett, 477 U.S. 317, 332 (1986). "This demonstration must be accomplished by reference to materials of evidentiary

92
122

quality, and that evidence must be more than 'merely colorable.'" Flovac, Inc. v. Airvac, Inc., 817 F.3d 849, 853 (1st Cir. 2016) (citation omitted). Once the moving party makes the required showing, "'the burden shifts to the nonmoving party, who must, with respect to each issue on which [it] would bear the burden of proof at trial, demonstrate that a trier of fact could reasonably resolve that issue in [its] favor.'" Id. (citation omitted). The nonmoving party's failure to prove any essential element of a claim "'necessarily renders all other facts immaterial.'" Delgado v. Aero Inv. Corp., 601 F. App'x 12, 15 (1st Cir. 2015) (quoting Celotex Corp., 477 U.S. at 323). The nonmoving party's failure to make the requisite showing "entitles the moving party to summary judgment." Flovac, Inc., 817 F.3d at 853.

At the summary judgment stage, the court draws "'all reasonable inferences in favor of the non-moving party,' but disregard[s] 'conclusory allegations, improbable inferences, and unsupported speculation.'" Fanning v. FTC, 821 F.3d 164, 170 (1st Cir. 2016) (citation omitted). When ruling on cross motions for summary judgment, the court applies the same standard of review, but each motion is viewed separately. See Cooper v. D'Amore, 881 F.3d 247, 249-50 (1st Cir. 2018) (citation omitted).

Background³

At approximately 12:30 p.m. on May 7, 2014, Mrs. Amatuucci went to the Wolfeboro Police Department ("WPD") to lodge a complaint with (then) WPD Chief Stuart Chase in regard to a traffic stop and violation citation a WPD officer issued to Mrs. Amatuucci in 2013. See Compl. (Doc. No. 1) ("Compl.") 2, ¶8.; Defs.' Mot. Summ. J., Ex. A, July 24, 2018 Aff. Stuart Chase (Doc. No. 138-2) ("Chase Aff.") 1, ¶ 1. Mrs. Amatuucci has claimed in this case that Chief Chase, during the May 7, 2014 conversation at the WPD, refused to accept Mrs. Amatuucci's complaint, and threatened to "get her" and arrest her "on the spot" if she again accused any WPD officer of misconduct. Compl. 2-3, ¶ 9. The summary judgment record does not contain any sworn statement from Chief Chase concerning his May 7, 2014 discussion with Mrs. Amatuucci, but in their Answer, defendants denied that Chief Chase threatened Mrs. Amatuucci during the May

³**Mrs. Amatuucci has not submitted, in support of her summary judgment motion, her own affidavit, sworn statement or declaration under oath.** To the extent the court has relied on Mrs. Amatuucci's unsworn statements, such statements are undisputed unless otherwise noted. To the extent Mrs. Amatuucci has relied on documentary evidence as to which she would likely be able to produce competent evidence at trial, the court has considered such submissions to be of evidentiary quality for the purposes of the court's consideration of the pending summary judgment motions. The court has taken these measures in an abundance of caution, in light of Mrs. Amatuucci's pro se status.

94
124

7, 2014 exchange at the WPD. See Feb. 23, 2017 Answer (Doc. No. 87) ("Answer") 2, ¶¶ 8-9.

It is undisputed that after Mrs. Amatuucci left the WPD, she went to the Wolfeboro Town Hall ("Town Hall") to try to lodge a complaint with the Town Board of Selectmen about Chief Chase's conduct at the police station. See Compl. 2, ¶ 10. At some point Mrs. Amatuucci's interactions with the town employees at the Town Hall became a disturbance, although the parties disagree as to who was responsible for the disturbance. See id. at 3, ¶ 11; Answer 3, ¶ 11. A town employee called the WPD requesting that an officer respond to the Town Hall to address the disturbance. See Compl. 3, ¶ 11; Chase Aff. 1, ¶ 3.

Mrs. Amatuucci left the Town Hall before the police arrived, announcing as she left that she was going to the Carroll County Sheriff's Department ("CCSD") to complain about Chief Chase's actions at the WPD earlier that day. See Compl. 3, ¶ 11. WPD dispatch was notified that Mrs. Amatuucci had left Town Hall and was proceeding to the CCSD. See id. at 4, ¶ 12; Chase Aff. 1, ¶ 4. Dispatch advised WPD Officer Shane Emerson, who was at that time driving his police cruiser toward downtown Wolfeboro, to be on the lookout for Mrs. Amatuucci, and provided Officer Emerson with a description of Mrs. Amatuucci's car. See Defs.' Mot. Summ. J., Ex. C., July 26, 2018 Aff. Shane Emerson (Doc. No.

95
125

138-4) ("Emerson Aff.") 1, ¶ 2; June 25, 2015 Order, State v. Amatuucci, No. 464-2014-CR-836 (N.H. Cir. Ct., 3d Cir.-Dist. Div.-Ossipee) (Doc. No. 138-5) ("State Court Verdict") at 2.

Shortly thereafter, Officer Emerson spotted Mrs. Amatuucci's car and observed that she appeared to be speeding. See Compl. 5, ¶ 17; Emerson Aff. 1, ¶ 3; State Court Verdict at 2. Officer Emerson trained his radar unit on Mrs. Amatuucci's car and determined that Mrs. Amatuucci was travelling 42 miles per hour ("mph"). See Emerson Aff. 1, ¶ 3; State Court Verdict at 2. The posted speed limit at that location was 30 mph. See id. Officer Emerson activated the blue lights and siren on his police cruiser and advised WPD dispatch that he was attempting to pull Mrs. Amatuucci over for travelling 42 mph in a 30 mph zone. See id. Mrs. Amatuucci refused to stop for Officer Emerson, although once Officer Emerson was following her with his blue lights and siren on, Mrs. Amatuucci ceased exceeding the posted speed limit. See Emerson Aff. 1, ¶ 5; State Court Verdict at 2. Chief Chase, upon learning, via WPD dispatch, of Officer Emerson's pursuit of Mrs. Amatuucci, proceeded in his own cruiser toward the location of the pursuit. See Chase Aff. 1, ¶ 5. According to his sworn statement, Chief Chase "made no attempt to catch up with Amatuucci or Officer Emerson." Chase Aff. 1, ¶ 5.

196
126

*the town called
CCSD*

When Mrs. Amatucci refused to stop for Officer Emerson, WPD personnel obtained the assistance of the CCSD in stopping Mrs. Amatuucci's car. See Defs.' Reply to Pl.'s Obj. to Defs.' Mot. Summ. J., Ex. A, Aff. Timothy Thompson (Doc. No. 143-1) ("Thompson Aff.") 1, ¶ 2. Mrs. Amatuucci eventually stopped her car when CCSD Sgt. Timothy Thompson stepped into the road and signaled her to pull over. See Compl. 4, ¶ 13; Emerson Aff. 1, ¶ 5; Thompson Aff. 1-2, ¶¶ 3, 6.

Mrs. Amatuucci was placed under arrest, handcuffed, and placed in the back of Officer Emerson's cruiser. See Compl. 4, ¶ 13; Chase Aff. at 1, ¶ 5; May 8, 2014 Report of CCSD Sgt. Timothy Thompson (Doc. No. 20, at 26) ("Thompson Rpt."). According to Sgt. Thompson's written report, Sgt. Thompson told Mrs. Amatuucci "that she had been arrested for disobeying a police officer." Thompson Rpt.

Chief Chase "arrived at the scene where Amatuucci had apparently been stopped . . . about two minutes after her vehicle had been stopped," when "she had already been placed in handcuffs and was being placed in the rear of Emerson's cruiser." Chase Aff. 1, ¶ 5. Chief Chase did not give Officer Emerson instructions to pursue or arrest Mrs. Amatuucci. See id. at 2, ¶ 7.

97
127

Officer Emerson then transported Mrs. Amatucci to the Carroll County House of Corrections ("CCHC"), where she was fingerprinted and placed in a holding cell. See Compl. 4, ¶¶ 14-15; Chase Aff. 2, ¶ 6; Thompson Rpt. At 3:35 p.m., a Bail Commissioner set a personal recognizance bond with conditions, in regard to the disobeying a police officer charge against Mrs. Amatucci. See Compl. 4, ¶ 15; May 7, 2014 Bond in Criminal Case (Doc. No. 20, at 28) ("Bond in Crim. Case"). Mrs. Amatucci was then released from the CCHC. See Compl. 4, ¶ 15. The bail conditions set by the Bail Commissioner, in regard to the misdemeanor disobeying a police officer charge, were that Mrs. Amatucci was to appear in court for scheduled hearings, "keep the peace and be of good behavior," and notify the court of any change of address during the pendency of her case. See id. at 4, ¶ 15; Bond in Crim. Case.

Officer Emerson brought two complaints against Mrs. Amatucci in the New Hampshire Circuit Court, Third Circuit, District Division, Ossipee, for her conduct while driving on May 7, 2014 - a violation level offense for speeding in violation of N.H. Rev. Stat. Ann. § ("RSA") 265:60, I; and a misdemeanor offense for disobeying a police officer in violation of RSA 265:4. May 29, 2014 Complaints, Amatucci, No. 464-2014-CR-836 (N.H. Cir. Ct., 3d Cir.-Dist. Div.-Ossipee); State Court

98
128

Verdict, at 1. Trial was held on those complaints in June 2015. See Compl. 5, ¶ 16; State Court Verdict at 1. The case was prosecuted by the WPD Prosecutor, Attorney Timothy Morgan, who is not a defendant in this action. Officer Emerson testified at the trial. See State Court Verdict at 2. Chief Chase played no role in either the prosecution of Mrs. Amatucci or her trial. See Chase Aff. 2, ¶ 7.

The trial court found Mrs. Amatucci guilty of disobeying a police officer and not guilty of speeding. See Compl. 5, ¶ 15; State Court Verdict at 3-4. In regard to the speeding violation, the court specifically found that, at the time Officer Emerson first attempted to pull Mrs. Amatucci over, she had exceeded the posted speed limit by travelling 42 mph in a 30 mph zone, but that the prosecution had failed to demonstrate, beyond a reasonable doubt, that Mrs. Amatucci had violated the New Hampshire speeding statute, RSA 265:60, as follows:

RSA 265:60, I[,] prohibits operating a vehicle on a way at a speed which is greater than reasonable and prudent under the conditions and having regard to actual and potential hazards then existing. Subsection II of RSA 265:60 provides that the speed of a vehicle in excess of the limit specified, in this case, 42 miles per hour in the posted 30 miles per hour zone, "shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful." Here we have the seemly [sic] conflicting evidence of no specific conditions presented that there were actual or potential hazards at that place and time that the defendant was traveling 12 miles per

99
129

hour over the posted speed limit, but that that speed is prima facie unreasonable and imprudent. This conflicting evidence leaves the court with no basis for a finding, beyond a reasonable doubt, that the defendant was traveling at a speed which was unreasonable and imprudent for the conditions existing, having in mind the actual and potential hazards associated with those conditions. Therefore, there must be a finding of not guilty.

State Court Verdict at 3 (emphasis added). Concerning the disobeying a police officer offense, the court found:

As to the complaint alleging the Class B misdemeanor for disobeying a police officer, RSA 265:4, [I(c)] instructs that while driving a vehicle, no person shall purposely neglect to stop when signaled to stop by any law enforcement officer who signals the person to stop by means of audible or visual emergency warning signals. Clearly the evidence presented shows, beyond a reasonable doubt, that the defendant did not stop when signaled to do so by the officers, using his emergence [sic] warning lights and siren, for upwards to a 4 mile distance. While there is no direct evidence of the defendant's state of mind presented, the circumstances presented by the evidence allows for no other conclusion than that the defendant acted purposefully in choosing to not stop as directed by the officer. Therefore, she is found guilty of the charge of disobeying a police officer.

Id. at 3-4. The New Hampshire Supreme Court affirmed Mrs. Amatucci's conviction on appeal. See State v. Amatucci, No. 2015-0562, 2016 WL 3476995, 2016 N.H. LEXIS 135 (N.H. Apr. 29, 2016).

Mrs. Amatucci asserts in this case that Officer Emerson and Chief Chase pulled her over and arrested her for speeding on May 7, 2014 in order to prevent her from reporting Chief Chase's

100
130

misconduct to the CCSD. See Compl. 8, ¶ 21. Mrs. Amatucci claims that the effort to stop her from reporting police misconduct was made in furtherance of the Town's "de facto" policy of refusing to accept and/or investigate citizen complaints of police misconduct. See Compl. 7-8, ¶¶ 20-21. The claims presently pending in this case, are: 1) a Fourth Amendment malicious prosecution claim, asserted under 42 U.S.C. § 1983, against Chief Chase and Officer Emerson; and 2) a Fourth Amendment malicious prosecution claim, asserted under § 1983, against the Town of Wolfeboro, pursuant to Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978).

Discussion

I. Elements of Fourth Amendment Malicious Prosecution Claims

To succeed on her Fourth Amendment malicious prosecution claim against Chief Chase and Officer Emerson, Amatucci must prove that those defendants "(1) caused (2) a seizure of the plaintiff pursuant to legal process unsupported by probable cause, and (3) criminal proceedings terminated in plaintiff's favor." Hernandez-Cuevas v. Taylor ("Hernandez-Cuevas I"), 723 F.3d 91, 101 (1st Cir. 2013) (citation omitted).⁴ To demonstrate

⁴There are limited circumstances where a neutral and detached magistrate's supportable finding of probable cause is not fatal to a malicious prosecution claim, such as where that

101
131

liability for her § 1983 malicious prosecution claim against the Town, plaintiff must also show that the "moving force" behind the asserted violation of her Fourth Amendment rights was a town "policy or custom . . . made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy." Monell, 436 U.S. at 694.

II. Probable Cause

To prove her Fourth Amendment malicious prosecution claims in this case, plaintiff must demonstrate that there was no probable cause to charge her with speeding on May 7, 2014. "The Fourth Amendment protects '[t]he right of the people to be secure in their persons . . . against unreasonable . . . seizures.'" Manuel v. City of Joliet, 137 S. Ct. 911, 917 (2017) (quoting U.S. Const. amend. IV)). When there is probable cause for an arrest, the Fourth Amendment's prohibition against

finding was based on knowing falsehoods presented by officers regarding issues material to the probable cause determination. To maintain a Fourth Amendment malicious prosecution claim against the officers responsible for her arrest, Mrs. Amatucci has "to demonstrate that the officers 'were responsible for [her] continued, unreasonable pretrial detention,'" after she was "'held pursuant to legal process'" upon a "'neutral magistrate's determination that probable cause exist[ed] for [her] arrest.'" Hernandez-Cuevas v. Taylor ("Hernandez-Cuevas II"), 836 F.3d 116, 123 (1st Cir. 2016) (quoting Hernandez-Cuevas I, 723 F.3d at 99-100). Such a showing, however, would not obviate the requirement to prove termination of the prosecution in her favor.

102
132

unreasonable seizures "is not offended." Collins v. Univ. of N.H., 664 F.3d 8, 14 (1st Cir. 2011).

"Probable cause exists when police officers, relying on reasonably trustworthy facts and circumstances, have information upon which a reasonably prudent person would believe the suspect had committed or was committing a crime." United States v. Pontoo, 666 F.3d 20, 31 (1st Cir. 2011) (internal quotation marks and citations omitted). "'The question of probable cause . . . is an objective inquiry,' and [courts] do not consider the 'actual motive or thought process of the officer.'" Kenney v. Head, 670 F.3d 354, 358 (1st Cir. 2012) (citation omitted).

It is important to note, at the outset, that in order for Mrs. Amatuucci to prove her case, she must show that the defendants are liable for a malicious prosecution as to the ^{ARREST} speeding charge resulting in acquittal, as opposed to the disobeying an officer charge of which she was convicted. As the court rules, see Part III, infra, she cannot prove that claim. Even if she had been arrested or detained for speeding, however, that charge was supported by probable cause.

A. RSA 265:60

In New Hampshire, the offense of speeding is committed when a person drives at "unreasonable and imprudent" speeds for the

103
133

conditions and circumstances. RSA 265:60, I. While driving at a rate of speed that is higher than the posted speed limit is not necessarily a violation of RSA 265:60, I, it is "prima facie evidence" that the driver's speed is "unreasonable and imprudent." 265:60, II. In other words, if a person is driving faster than the posted speed limit, probable cause exists to believe that the person is violating RSA 265:60, I, as "[p]robable cause is a reasonable ground for belief supported by less than prima facie proof but more than mere suspicion." United States v. Blair, 524 F.3d 740, 748 (6th Cir. 2008); see also United States v. Wilder, 526 F.3d 1, 6 (1st Cir. 2008) ("The standard of probable cause requires a probability, not a prima facie showing, of criminal activity." (citation omitted)); Bryant v. Noether, 163 F. Supp. 2d 98, 107-08 (D.N.H. 2001) ("Probable cause does not require the facts and circumstances within the officer's knowledge to 'be sufficient to prove guilt beyond a reasonable doubt, make out a prima facie case or even to establish that guilt is more probable than not.'" (citation omitted)). Therefore, if a police officer reasonably determines that a person is driving at a rate of speed higher than the posted speed limit, that officer has probable cause to stop the car and cite the driver with the offense of speeding.

(104)
134

Mrs. Amatucci has stated, many times, in her filings in this case that she was "not speeding."⁵ Mrs. Amatucci explained during oral argument that her assertion that she was "not speeding" was not based on a claim that she was travelling at a rate of speed at or below the posted speed limit at the time Officer Emerson first attempted to pull her over. Instead, Mrs. Amatucci's assertion that she was "not speeding" is based on the fact that the defendants were unable to prove at trial that her rate of speed was "unreasonable and imprudent" under the circumstances and conditions that existed at the time of the alleged offense, resulting in the trial court finding that the evidence at her trial was insufficient to demonstrate, beyond a reasonable doubt, that she had violated RSA 265:60. Simply put, Mrs. Amatucci argues that because Officer Emerson, at the time of her trial, was unable to prove beyond a reasonable doubt that she had violated RSA 265:60, he lacked probable cause to pull her over for speeding at all.

⁵See, e.g., Compl. 5; *id.* at 8, ¶ 11; Compl. Addend. (Doc. No. 16) 2; Compl. Addend. (Doc. No. 17) 2; Compl. Addend. (Doc. No. 19) 1; Compl. Addend. (Doc. No. 20) 3; Compl. Addend. (Doc. No. 23) 6, 9; Compl. Addend. (Doc. No. 27) 1; Compl. Addend. (Doc. No. 51) 4; Pl.'s Mot. Summ. J. (Doc. No. 109) 5; Pl.'s Mot. Summ. J. (Doc. No. 123) 6; Pl.'s Obj. to Def.'s Mot. Summ. J. (Doc. No. 140) 1.

105
135

An acquittal does not establish that an arresting officer "lacked the requisite probable cause to support a charge," as a "conviction requir[es] the higher standard of proof beyond a reasonable doubt." Gillis v. Chase, 894 F.3d 1, 3 (1st Cir. 2018). An officer can possess probable cause to believe that an offense has been committed but ultimately be unable to produce at trial sufficient evidence to support a conviction for that offense. See id.; Blair, 524 F.3d at 748.

Defendants have produced Officer Emerson's affidavit, which states that his fully-functioning radar unit indicated that Mrs. Amatucci was travelling 42 mph in a 30 mph zone. See Emerson Aff. 1, ¶ 3. On similar evidence, the state court found, and twice stated, that Mrs. Amatucci was travelling in excess of the posted speed limit. See State Court Verdict at 2-3 (finding "defendant was traveling 42 miles per hour in a posted 30 mile per hour zone" and "defendant was traveling 12 miles per hour over the posted speed limit").

Mrs. Amatucci has not provided this court with any sworn statement or other submission of evidentiary quality to rebut defendants' submissions. In support of her argument that she was "not speeding," and that Officer Emerson thus lacked probable cause to pull her over, Mrs. Amatucci claims that Sgt. Thompson stated in a written report that the WPD had advised him

106
+36

that Mrs. Amatucci was not speeding, and that they were just trying to stop her car. See Pl.'s Mot. Summ. J. (Doc. No. 123) 3, ¶ 6. Mrs. Amatucci is mistaken. The record evidence rfutes this incorrect claim. Sgt. Thompson's written report actually states that, after the police were already trying to stop Mrs. Amatucci's car, the WPD reported that their effort to stop Mrs. Amatucci's car "was not a high speed pursuit rather she was not stopping her vehicle for the Wolfeboro cruisers." Thompson Rpt. Further, defendants have provided the court with Sgt. Thompson's affidavit that he "was not involved in the Wolfeboro Officer's first attempt to stop Mrs. Amatucci," and that Sgt. Thompson "do[es] not know what her initial speed was at the time the Wolfeboro Officer tried to stop Mrs. Amatucci." Thompson Aff. 2, ¶ 4. There is thus no evidence in the record sufficient to rebut defendants' showing that Officer Emerson had probable cause to believe that Mrs. Amatucci had driven faster than the posted speed limit when he caused her to be pulled over.

B. Stop for Violation Level Offense

Mrs. Amatucci argues that, because in New Hampshire, speeding is a non-criminal traffic violation, probable cause sufficient to support an arrest could not be formed based on her commission, or suspected commission, of the offense of speeding.

107
137

ARREST SIGN

Mrs. Amatucci is mistaken. "As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred." Whren v. United States, 517 U.S. 806, 810 (1996).⁶

Once Officer Emerson put on his blue lights and siren in an attempt to stop her car, *ARREST* Mrs. Amatucci was required by law to pull over, whether or not she agreed that she was speeding, or was suspicious of Officer Emerson's motives for stopping her, and her failure to do so was chargeable as a separate misdemeanor offense. See RSA 265:4(I)(c)⁷; State v. Steeves, 158

⁶New Hampshire law explicitly allows a police officer to make a warrantless arrest for a violation-level offense committed in his or her presence. See RSA 594:10, I(a) ("An arrest by a peace officer without a warrant on a charge of a misdemeanor or a violation is lawful whenever [h]e has probable cause to believe that the person to be arrested has committed a misdemeanor or violation in his presence.").

⁷RSA 265:4 states, in pertinent part:

I. No person, while driving or in charge of a vehicle, shall:

. . . .

(c) Purposely neglect to stop when signaled to stop by any law enforcement officer who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment, or who signals such person to stop by means of any authorized audible or visual emergency warning signals

108
138

N.H. 672, 676, 972 A.2d 1033, 1037 (2009) ("drivers simply are not free to disregard blue lights").

C. "Set Up"

Finally, Mrs. Amatucci argues that the pursuit of her car and her subsequent arrest were the result of a "set up" by Officer Emerson and Chief Chase to prevent her from reaching the CCSD and lodging a complaint against Chief Chase. Even assuming, without deciding, that the evidence before the court demonstrates that Officer Emerson and Chief Chase had an ulterior motive to stop Mrs. Amatucci's car other than to enforce traffic laws, such evidence would not generate a genuine issue of material fact sufficient to defeat defendants' motion for summary judgment, as "a traffic stop supported by probable cause [does] not violate the Fourth Amendment regardless of the officer's actual motivations." Reichle v. Howards, 566 U.S. 658, 665 n.5 (2012) (citing Whren, 517 U.S. at 812-13); see also Kenney, 670 F.3d at 358.

III. No Seizure Pursuant to Legal Process

"In a malicious prosecution case brought under Section 1983, 'the constitutional violation lies in the deprivation of liberty accompanying the prosecution rather than in the prosecution itself.'" Moreno-Medina v. Toledo, 458 F. App'x 4,

see
speedy
trial
clause

7 (1st Cir. 2012) (quoting Britton v. Maloney, 196 F.3d 24, 29 (1st Cir. 1999)). To support a constitutional malicious prosecution claim, therefore, plaintiff must demonstrate that she was subject to a "deprivation of liberty, pursuant to legal process, that is consistent with the concept of a Fourth Amendment seizure." Moreno-Medina, 458 F. App'x at 7 (quoting Harrington v. City of Nashua, 610 F.3d 24, 30 (1st Cir. 2010)).

The parties do not dispute that after her car was stopped, Mrs. Amatucci was arrested and transported to the CCHC. The parties also agree that Mrs. Amatucci was later released from the CCHC on personal recognizance bond with conditions, by a Bail Commissioner.⁸

The record in this case demonstrates that Mrs. Amatucci's arrest, brief incarceration, and release on conditions all concerned the disobeying a police officer charge – the charge of which she was convicted at trial, and which she does not challenge here. Sgt. Thompson, after communicating with the Wolfeboro Police and witnessing Mrs. Amatucci's arrest, advised Mrs. Amatucci that she had been arrested for disobeying a police

⁸In New Hampshire, a Bail Commissioner is a judicial officer with the authority to set bail before a detainee's arraignment in court. See Katz v. McVeigh, 931 F. Supp. 2d 311, 352 (D.N.H. 2013) (citing N.H. Rev. Stat. Ann. § 597:18).

110
140

officer. See Thompson Rpt. ("[Sgt. Thompson] told [Mrs. Amatuucci] that she had been arrested for disobeying a police officer" and that likely she would be taken to jail."). Once Mrs. Amatuucci was transported to the CCHC, the bail commissioner set bond on the charge of disobeying a police officer. See Bond in Crim. Case. (listing "Offense(s) Charged" as "Disobey an Officer, Failure to Stop"). In other words, none of the Fourth Amendment-implicating events in this case concerned the speeding charge that she challenges in this case; her arrest; very brief detention and personal recognizance bail conditions all attended, instead, to her disobeying an officer charge, of which she was convicted.

While Mrs. Amatuucci has alleged that she was also actually arrested for speeding (as opposed to simply cited), and then jailed and subjected to bail conditions on that charge, she has not supported that assertion with any submission of evidentiary quality. Significantly, every item of record evidence, see Bond in Crim. Case; Thompson Rpt., and admissible testimony connect Mrs. Amatuucci's arrest and what followed to the disobeying charge, and more of that evidence mentioned or otherwise involved or implicated the probable cause-supported, see Part II, supra, speeding violation. Accordingly, Mrs. Amatuucci has failed to demonstrate that her arrest, incarceration, and

subjection to bail conditions concerned the speeding charge in this case.⁹

Mrs. Amatucci has thus failed to meet her burden to counter the defendants' evidence that she was not seized or held for speeding "pursuant to legal process," Hernandez-Cuevas II, 836 F.3d at 123 (citation omitted), on a charge of speeding. See Flovac, Inc., 817 F.3d at 853. Accordingly, Mrs. Amatucci has failed to demonstrate that there is any disputed fact as to that essential element of her malicious prosecution claims, and on that basis, the defendants are entitled to summary judgment as to the claims in this action as a matter of law. See id.; Delgado, 601 F. App'x at 15.

IV. Municipal Liability Under Monell

Mrs. Amatucci has asserted that the Town of Wolfeboro is liable to her for malicious prosecution because the Fourth

⁹Even if Mrs. Amatucci could demonstrate, however, that the bail conditions set upon her release from the CCHC applied to her speeding offense, as well as the disobeying offense, the court notes that those conditions, which "required her to attend court proceedings, notify the court of any change in address, [and] refrain from committing crimes," see Bond in Crim. Case, are the type of "run-of-the-mill conditions of pretrial release" that do not generally "rise to the level of a Fourth Amendment seizure." Harrington, 610 F.3d at 32-33. And further, of course, Mrs. Amatucci's speeding-related claim necessarily fails because that charge was supported by probable cause. See Part II, supra; Hernandez-Cuevas I, 723 F.3d at 101.

Speedy
Trial
Clause

ARREST

VIOLATION OF
SPEEDY TRIAL CLAUSE
FRAUD - NO
CHARGES - They were
VOIDED

112
142

Amendment violation she has alleged was caused by a Town policy of refusing to address police misconduct. "An underlying constitutional tort is required to proceed under a municipal liability theory. Where, as here, there is no constitutional *FRAUD* violation by the employees of the municipality, there can be no liability predicated on municipal policy or custom." Leavitt v. Corr. Med. Servs., Inc., 645 F.3d 484, 504 (1st Cir. 2011). As the evidence before the court demonstrates that no Town employee violated Mrs. Amatucci's Fourth Amendment rights, the Town is entitled to judgment as a matter of law as to the malicious prosecution claim asserted against it under a theory of municipal liability.

V. Qualified Immunity

The defendants argue that they are entitled to qualified immunity with regard to Mrs. Amatucci's Fourth Amendment malicious prosecution claims. "Qualified immunity protects government officials from trial and monetary liability unless the pleaded facts establish '(1) that the official violated a statutory or constitutional right, and (2) that the right was "clearly established" at the time of the challenged conduct.'" Marrero-Mendez v. Calixto-Rodriguez, 830 F.3d 38, 43 (1st Cir. 2016) (quoting Ashcroft v. al-Kidd, 563 U.S. 731, 735 (2011)).

113
143

what about the ARREST

The undisputed record in this case demonstrates that the defendants had probable cause to stop Mrs. Amatucci's car for speeding on May 7, 2014, and thus, she cannot succeed on a claim of a violation of her Fourth Amendment right not to be maliciously prosecuted for that speeding offense. Accordingly, and without the necessity of analyzing the second prong of the qualified immunity analysis, defendants are entitled to qualified immunity in regard to the malicious prosecution claims in this case.

Conclusion

FRAUD

For the foregoing reasons, finds that the defendants have "affirmatively demonstrate[d] that there is no evidence in the record to support a judgment" in Mrs. Amatucci's favor as to her malicious prosecution claim. Celotex Corp., 477 U.S. at 332. Accordingly, the court enters the following Order:

1. The court's September 24, 2018 endorsed order incorrectly identifies the defendants' summary judgment motion as Document No. 139. The clerk's office is directed to amend that endorsed order in the docket of this case to reflect that the defendants' motion for summary judgment is Document No. 138.

114
114

2. Defendants' motion for summary judgment (Doc. No. 138) is GRANTED. *Fraud*

3. Plaintiff's motion for summary judgment (Doc. No. 123) is DENIED.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: December 26, 2018

cc: Josephine Amatucci, pro se
Daniel J. Mullen, Esq.
Mark H. Puffer, Esq.

115
145

Notices

1:20-cv-01194 Amatuucci v. US District Court-NH, District Judge

U.S. District Court

District of New Hampshire

Notice of Electronic Filing

The following transaction was entered on 12/23/2020 at 9:43 AM EST and filed on 12/23/2020

Case Name: Amatuucci v. US District Court-NH, District Judge

Case Number: 1:20-cv-01194

Filer:

Document Number: 2

Docket Text:

NOTICE - Filing Fee Omitted. Either the filing fee or an application to proceed without fees or costs must be submitted within 60 days. If proceeding without prepayment of fees or costs is sought the court needs: Application to Proceed Without Prepayment of Fees or Costs. Compliance Deadline set for 2/23/2021. (ed)

1:20-cv-01194 Notice has been electronically mailed to:

1:20-cv-01194 Notice, to the extent appropriate, must be delivered to:

Josephine Amatuucci
PO Box 272
Wolfeboro Falls, NH 03896

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045603718 [Date=12/23/2020] [FileN

0] [3583b5ecc203f84a0f8bed301d75dbe16e194e03bc3ebfdb9cdc5979b3ab7abaa2

99082cafe807335f3a0bc018e90cc0afbdf91f82dd2a5282a2bb12d1faf39a]]

Your number
on your document
is # 5247.

opened as a new
case per order
in case 18-mc-38-JL

46

116

Notices1:20-cv-01194 Amatuucci v. US District Court-NH, District Judge**U.S. District Court****District of New Hampshire****Notice of Electronic Filing**

The following transaction was entered on 12/23/2020 at 9:43 AM EST and filed on 12/23/2020

Case Name: Amatuucci v. US District Court-NH, District Judge

Case Number: 1:20-cv-01194

Filer:

Document Number: 2

Docket Text:

NOTICE - Filing Fee Omitted. Either the filing fee or an application to proceed without fees or costs must be submitted within 60 days. If proceeding without prepayment of fees or costs is sought the court needs: Application to Proceed Without Prepayment of Fees or Costs. Compliance Deadline set for 2/23/2021. (ed)

1:20-cv-01194 Notice has been electronically mailed to:

1:20-cv-01194 Notice, to the extent appropriate, must be deliv

Josephine Amatuucci
PO Box 272
Wolfeboro Falls, NH 03896

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045603718 [Date=12/23/2020] [FileN
0] [3583b5ecc203f84a0f8bed301d75dbe16e194e03bc3ebfdb9cdc5979b3ab7abaa2
99082cafe807335f3a0bc018e90cc0afbdf91f82dd2a5282a2bb12d1faf39a]]

Your number
on your document
is # 5247.
opened as a new
case per order
in case 18-mc-38-JL

117

INCOME 1546.00
 Social Security 4511.00
 BLAGOER 350.00
 BILLS

	MONTHLY
1. RENT	5200
2. AARP-UNITED HEALTH INSURANCE	174.50
3. LIBERTY MUTUAL HOUSE INSURANCE AND CAR INSURANCE	181.11
4. PRESCRIPTION DRUG	32.60
5. Microcast	184.63
6. Fuel (heating)	250.00
7. Santander (Car Payment)	278.83
8. Lawrence Sumsli (Bankruptcy)	500.00
9. Electric (Town)	50.00
10. Food	200.00
11. Gas for car	100.00
12. Clothing	50.00

TOTAL 2,004.66

TOTAL INCOME

~~3,000.00~~

1,511.50 TOTAL
 ONLY Social Security

At end of month I borrow the balance from my church. And it goes on and on.

Santander
CONSUMER USA

ACCOUNT INFORMATION

Account Number 4628746
Account Status Current
Statement Date 10/20/2014
Payment Due Date 11/08/2014
Payment Amount \$278.83
Payments Made 0
Maturity Date 10/08/2020
Past Due Amount \$0.00
Principal \$14,993.00
Accrued Interest \$225.69
Unpaid Fees & Charges \$0.00
Estimated Payoff* \$15,218.69

TOTAL AMOUNT DUE

\$278.83 By **11/08/2014**

*Balance including principal, accrued interest, and unpaid fees and charges as of the Statement Date.

183143



JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY POB 272
WOLFEBORO FALLS, NH 03896



AMERICAN EXPRESS CREDIT CARD

*Town of
Wolfeboro*

MUNICIPAL ELECTRIC DEPARTMENT
84 SOUTH MAIN STREET
P.O. BOX 777
WOLFEBORO, NH 03894-0777
603-569-8180
603-569-8183

BILLING DATE	11/28/17	ACCOUNT NUMBER
DUE DATE	12/27/17	09-0449.002
TOTAL AMOUNT DUE		\$10,409.94

AMOUNT REMITTED \$
Service Address: 350 GOV WENTWORTH HWY

IF YOU HAVE AN ADDRESS CHANGE, PLEASE FILL OUT REVERSE SIDE AND CHECK BOX HERE. ☐
Please return this portion with your payment and make checks payable to:

28718P 0480 E0287X 10324 D3073818705 82 P4858087 0001:0001



JOSEPHINE AMATUCCI
PO BOX 272
WOLFEBORO FALLS NH 03896-0272

Town of Wolfeboro
P.O. Box 777
Wolfeboro, NH 03894-0777

MUNICIPAL ELECTRIC DEPARTMENT
84 SOUTH MAIN STREET
P.O. BOX 777
WOLFEBORO, NH 03894-0777
603-569-8180
603-569-8183

METER NUMBER(S)		DATE	PREVIOUS READING	READ CODE	DATE	PRESENT READING	READ CODE	MULTI	TOTAL KWH USED
3320		10/23/17	9853	ACT	11/28/17	2465	ACT	1	2612
PREVIOUS BALANCE						\$10,093.54			
PAYMENTS AS OF 11/28/17						\$50.00CR			
BALANCE FORWARD						\$10,043.54			
CUSTOMER CHARGE						\$5.55			
DISTRIBUTION 2612 KWH @ .035200						\$91.94			
GENERATION 2612 KWH @ .102400						\$267.47			
STATE OF NEW HAMPSHIRE CONSUMPTION TAX						\$1.44			
TOTAL AMOUNT DUE									

1ST INSTALLMENT: \$	4
2ND INSTALLMENT: \$	4
TOTAL PAYMENTS: \$	
<hr/>	
AMOUNT DUE \$	9
BY DEC 19, 2017	

ZNR 1 AM 6.503 EIGHTX WARS 230413Z20732 P000111900010001

**Town of Wolfeboro
P.O. Box 629
Wolfeboro, NH 03894-0629**

PLUMED RANCH AND FERN HAVEN RESORT WITH YOUR POWER. MAKE CHECKS PAYABLE TO THE TOWN OF WOLFEBORO.

REAL ESTATE TAX BILL
84 SOUTH MAIN STREET P.O. BOX 629
WOLFEBORO, NH 03094-0629

OFFICE HOURS
MONDAY - FRIDAY : 8:00AM - 4:00PM
TELEPHONE (813) 568-3902
email : info@colorfulworldboronh.us

TAX YEAR: 2017
ACCOUNT NUMBER: 10-3996-701

TAX MAP LOT NUMBER: 151--21

PROPERTY LOCATION: 350 GOV WENDEWORTH HWY

WOLFEBORO FALLS NH 03895-0272

	TAX RATES	TOTAL VALUATION	AMOUNT	ASSESSMENT INFORMATION	TAX INFORMATION
MUNICIPAL	5.760	\$64,500	\$371.00	BUILDING VALUE \$70,000	GROSS TAX \$966.00
SCHOOL-LOCAL	5.550	\$64,500	\$357.00	LAND VALUE \$84,500	CREDITS
SCHOOL-STATE	2.280	\$64,500	\$147.00	TOTAL VALUE \$154,500	NET TAX \$966.00
COUNTY	1.390	\$64,500	\$89.00	EXEMPTIONS	FIRST BILL \$472.00
					SECOND BILL \$494.00
TOTAL	14.980	\$64,500	\$966.00	TAXABLE VALUE \$64,500	PAYMENTS
				AMOUNT DUE BY DEC 19, 2017	\$966.00

**F PAID AFTER DUE DATE ANNUAL INTEREST RATE OF 12% WILL BE CHARGED
PRIOR YEARS TAXES DO NOT INCLUDE ACCUMULATED INTEREST OR COSTS
PLEASE CONTACT THE TAX OFFICE FOR UPDATED AMOUNTS**

IF YOU ARE ELDERLY, DISABLED, BLIND, A VETERAN, OR VETERAN'S SPOUSE, OR ARE UNABLE TO PAY TAXES DUE TO POVERTY OR OTHER GOOD CAUSE, YOU MAY BE ELIGIBLE FOR A TAX EXEMPTION, CREDIT, ABATEMENT, OR DEFERRAL. FOR DETAILS AND APPLICATION INFORMATION, CONTACT THE ASSESSING DEPARTMENT. (CONTACT AND ADDITIONAL INFORMATION ON REVERSE SIDE OF THIS BILL.)

PLEASE SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

WISCONSIN

Rt.

01/ACB01/PO010101-00010-02

November 08, 2017

Member ID: 017354256-1

Dear JOSEPHINE B AMATUCCI,

You have a past due amount.
Please pay so you don't lose
your plan.

We want to let you know that you have a past due amount on your AARP MedicareRx Silver Plus (PDP) account. As of November 08, 2017, you owe \$65.20. Please pay this amount upon receipt so that you won't be disenrolled.

What happens if I don't pay?

If we don't receive payment by the due date, we will automatically disenroll you from your AARP MedicareRx Silver Plus (PDP) plan. After December 31, 2017, you will no longer be covered by AARP MedicareRx Silver Plus (PDP). However, your other Medicare benefits will not be affected if you are disenrolled from AARP MedicareRx Silver Plus (PDP).

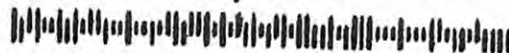
Premium payment
A past due amount is due on the 8th of each month. If we don't receive your payment by the 8th of each month, we will automatically disenroll you from your AARP MedicareRx Silver Plus (PDP) plan.

If you wish to pay your next month's premium today with the past due amount, here is due amount:

Past due amount: \$65.20
Premium (monthly charge): \$0.00
Total due: \$65.20
December 11, 2017

MetroCast

METROCAST CABLEVISION
 9 APPLE RD BELMONT NH 03220-3251
 888 1900 WM RP 00 11072017 NUNUNYNN 01 000176 0000
 JOSEPHINE AMATUCCI
 PO BOX 272
 WOLFEBORO FALLS NH 03896-0272



Statement of Service

Page 1 of 3

Billing Date: November 6, 2017
 Account Number: 8262 16 019 0036930

How to reach us

Office hrs M-F 8:00am-5:00pm
 Sat 8am-4:00pm www.MetroCast.com
 Phone hrs 24/7 1-800-882-1001

For Service At...

350 GOVERNOR WENTWORTH HWY
 WOLFEBORO NH 03894-4635

Account Summary

Your account is past due. Please remit the total balance due immediately to avoid a \$25.00 collection effort charge or disconnection of service. If payment was made after the remittance date, please disregard this message. Thank you.

Please see reverse side for account details.

Previous Balance	\$ 364.70
Payment(s)	-188.88
Monthly Charge(s)	167.81
Other Charge(s)	5.00
Taxes & Fee(s)	2.88
Balance Due	\$ 642.65
Payment Due Date	Upon Receipt

\$							
----	--	--	--	--	--	--	--

Manchester, NH 03101

April 4, 2016

Josephine Amalucci
POB 272
Wolboro Falls, NH 03896

RE: Chapter 13 #15-11853-BAH

Dear Ms. Amalucci:

We do not process Plan payments at our office. Checks need to be sent to our Lock Box in Memphis, Tennessee. I am therefore returning your check #2358298378 in the amount of \$289.00 dated April 2, 2016.

Please send all Plan payments to the following address:

Lawrence P. Sunski
Chapter 13 Trustee
PO Box 839
Memphis, TN 38101-0839

PLEASE include your case number!

The address for correspondence only is:

Lawrence P. Sunski
Chapter 13 Trustee
1000 Elm Street, Suite 1002
Manchester, NH 03101

Please call if you have any question regarding this.

Yours truly,

/s/ Lawrence P. Sunski

Lawrence P. Sunski

LPS:tc

Telephone: (603) 626-3889
E-Mail address: SunskiCh13@gmail.com

NATHANIEL PERKINS
DEAR JUDITH HOWARD
469-549-3142
KAREN

CA!
her

PER NO. FOR
5 YEARS

TAXES



PO Box 818061
5801 Postal Road
Cleveland, OH 44181



STATEMENT PRINT DATE

9/2/20

LOAN NUMBER

0001034549

FOR THE MONTH ENDING

8/31/20

**DEFAULT
BALANCE:**
\$2,497.63

PAYMENT PLAN

Line of Credit

LOAN STATUS

BANKRUPTCY

PROPERTY ADDRESS

350 Governor Wentworth
Hwy
Wolfeboro, NH 03894

LOAN TYPE

HECM

4870 1 AB 0.419 T20 P2 AUTO 458789.3-NNNN-30430943

JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY
WOLFEBORO, NH 03894

QUESTIONS? WE'RE HERE TO HELP.

CUSTOMER SERVICE 855-683-3095

Monday through Thursday from 7 am to 7 pm (CT)

Friday from 7 am to 5 pm (CT)

www.championmortgage.com

Mailing Address

P.O. Box 619093

Dallas, TX

75261-9093

ACCOUNT OVERVIEW

	Prior Month Interest Rate	Current Month Interest Rate	MIP
Daily	00 01524%	00 01525%	00 00137%
Monthly	00 46553%	00 46555%	00 04167%
Annual	05 56000%	05 56000%	00 50000%

THIS IS NOT A BILL

MESSAGE CENTER

Visit www.championmortgage.com for assistance in reaching your monthly mortgage statement, please click on the tab under "Tools" and click on the link labeled "How do I read and understand my monthly statement?"

Have you entered into a Real Estate Tax Deferral Program? If so, you are required to notify Champion Mortgage of this election.

BALANCE SUMMARY as of 8/31/20

Current Month Principal Limit	\$319,750.43
-Current Loan Balance	\$397,687.35
-Servicing Fee Set Aside	\$3,906.58
-Repairs Set Aside	\$0.00
-Tax and Insurance Set Aside	\$0.00
-First Year Property Charge Set Aside	\$0.00
Net Principal Limit	\$0.00
Current Loan Balance	\$397,687.35
+Corporate Advances	\$0.00
Total Loan Balance with Advances	\$397,687.35

Prior Month Available Line of Credit	\$0.00
Repair Set Aside	\$0.00
Tax and Insurance Set Aside	\$0.00
First Year Property Charge Set Aside	\$0.00
Available Line of Credit	\$0.00

INTEREST RATE CHANGE NOTICE

The interest rate on your reverse mortgage is fixed at the rate listed above over the life of your loan.



PO Box 818061
5801 Postal Road
Cleveland, OH 44181

REVERSE MORTGAGE MONTHLY STATEMENT

STATEMENT PRINT DATE
8/3/20

LOAN NUMBER
0001034549

FOR THE MONTH ENDING

7/31/20

**DEFAULT
BALANCE:**
\$3,035.83

PAYMENT PLAN

Line of Credit

PROPERTY ADDRESS

350 Governor Wentworth

Hwy

Wolfeboro, NH 03894

LOAN STATUS

BANKRUPTCY

LOAN TYPE

HECM

273 1 MB 0.439 T2 P1 AUTO 433638.5-NNNN-30414334

JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY
WOLFEBORO, NH 03894

QUESTIONS? WE'RE HERE TO HELP.

CUSTOMER SERVICE 855-683-3095

Monday through Thursday from 7 am to 7 pm (C.T.)

Friday from 7 am to 5 pm (C.T.)

www.championmortgage.com

Main Office Address

P.O. Box 619093

Dallas, TX

75261-9093

ACCOUNT OVERVIEW

	Prior Month Interest Rate	Current Month Interest Rate	MIP
Daily	00.01523%	00.01523%	00.00137%
Monthly	00.46333%	00.46333%	00.04167%
Annual	05.56000%	05.56000%	00.50000%

THIS IS NOT A BILL

MESSAGE CENTER

Visit www.championmortgage.com for assistance in reading your monthly mortgage statement, please click on the tab under "FAQ" and click on the "I" sign next to "How do I read and understand my monthly statement?"

Have you entered into a Real Estate Tax Deferral Program? If so, you are required to notify Champion Mortgage of this election.

BALANCE SUMMARY as of 7/31/20

Current Month Principal Limit	\$319,750.43	Prior Month Available Line of Credit	\$0.00
-Current Loan Balance	\$396,196.49	Repair Set Aside	\$0.00
-Servicing Fee Set Aside	\$3,979.44	Tax and Insurance Set Aside	\$0.00
-Repairs Set Aside	\$0.00	First Year Property Charge Set Aside	\$0.00
-Tax and Insurance Set Aside	\$0.00	Available Line of Credit	\$0.00
-First Year Property Charge Set Aside	\$0.00		
Net Principal Limit	\$0.00		
Current Loan Balance	\$396,196.49		
+Corporate Advances	\$0.00		
Total Loan Balance with Advances	\$396,196.49		

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: CARROLL Superior Court U.S. Dist. CT
 Case Name: JOSEPHINE ANATUCCI V. ATTORNEY DANIEL MULLEN &
 Case Number: JUDGE LA PLANTE
 (if known)

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS

1. Name: JOSEPHINE ANATUCCI DOB: 9/27/38
2. Residence Address: 350 FOREMAN WENTWORTH HIGHWAY WOLFEBORO 03894
3. Mailing Address (if different): P.O. 272 WOLFEBORO FALLS N.H. 03896
4. Marital Status: ☐ Single ☐ Married ☐ Separated ☐ Widowed
5. List the names, ages, relationships of dependents you support:
N/A
6. If you are presently employed, state where and for how long:
N/A ☐ Full-Time ☐ Part-Time
7. If unemployed, state last date of employment: YEARS & YEARS AGO
8. When do you anticipate new employment? NEVER I AM 82 YEARS OLD
9. If your spouse is presently employed, state where and for how long?
N/A WIDOW ☐ Full-Time ☐ Part-Time
10. If spouse unemployed, state last date of employment: N/A
11. List other employed household members and their weekly income: NONE
12. Please state weekly take-home amount

	Yours	Spouse's
Salary/Wages	\$ <u>N/A</u>	\$ <u>/</u>
Child Support	\$ <u>N/A</u>	\$ <u>/</u>
Alimony	\$ <u>N/A</u>	\$ <u>/</u>
Trust Benefits	\$ <u>N/A</u>	\$ <u>/</u>
Investment Income	\$ <u>N/A</u>	\$ <u>/</u>
Other	\$ <u>N/A</u>	\$ <u>/</u>
*Social Security	\$ <u>1,511.50</u>	\$ <u>/</u>
*Welfare Benefits	\$ <u>N/A</u>	\$ <u>/</u>
*Veteran's Benefits	\$ <u>N/A</u>	\$ <u>/</u>
*Pension	\$ <u>N/A</u>	\$ <u>/</u>
**Unemployment Compensation	\$ <u>N/A</u>	\$ <u>/</u>
**Worker's Compensation	\$ <u>N/A</u>	\$ <u>/</u>
Total	\$ <u>1,511.50</u>	\$ <u>/</u>
13. What money is presently available to you?

Cash on hand	\$	<u>40.00</u>
Checking account	\$	<u>/</u>
Savings account	\$	<u>/</u>
Stocks/Bonds/IRA/Pension	\$	<u>/</u>
Total	\$	<u>/</u>

Case Name: _____

Case Number: _____

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS

14. Please state your monthly household expenses:

Rent/Mortgage	\$ _____	Cell Phone	\$ _____
Property Taxes	\$ _____	Clothing	\$ _____
Heat	\$ _____	Transportation	\$ _____
Food	\$ _____	(including gas, maintenance, insurance, repairs)	
Utilities	\$ _____	Other (specify)	
Medical/Dental	\$ _____		\$ _____
Insurance	\$ _____		\$ _____
Total	\$ _____		

See Attached

15. List any real estate you own, its market value and the amount you owe:

350 GOVERNOR MENTWORTH HIGHWAY, WOLFEBORO
MARKET VALUE UNKNOWN - REVERSE MORT. OWE 394,687.35

16. List any vehicles you own (car, truck, boat, motorcycle, snowmobile, RV), their market value and the amount you owe:

2012 NISSAN VERSA - UNKNOWN VALUE - OWE ABOUT \$2500.00

17. List income tax paid last year: \$ YEARS & YEARS AGO18. List income tax refund received last year: \$ NONE

19. Other than monthly household expenses, list any bills you owe, amount owed, to whom, and monthly payment:

See Attached

20. List which of your bills are court-ordered payments (i.e. alimony, judgment in a law suit, etc.):

See Attached BANKRUPTCY & SANTANOE

21. Other than those previously mentioned, list anyone to whom you owe money, amount and when it is due:

N/A

22. If anyone owes you money, state name, address, amount due, and when due:

NO ONE OWES ME MONEY N/A

23. List any property you have transferred within the last three years, to whom and for what price:

N/A

24. List any other assets or expenses not previously mentioned:

N/A

* Exempt income – The Court may not consider this income. If this represents the sole source of income, the court may not issue a payment order.

** Potentially/partially exempt income – The Court may be unable to consider this income. Based upon the facts of the case, the Court may or may not issue a payment order.

Case Name: _____

Case Number: _____

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS**For non e-filed cases:**

I state that on this date I am ☒ mailing by U.S. mail, or ☐ Email (only when there is a prior agreement of the parties to use this method), or ☐ hand delivering a copy of this document to:

Daniel Muller

Other party

Other party's attorney

OR

For e-filed cases:

☐ I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

JOSEPHINE ANATUCCI

Name of Filer

N/A

Law Firm, if applicable

Bar ID # of attorney

Address

JOSEPHINE - P.O. BOX 272

City

State

Zip code

Josephine Anatucci

Signature of Filer

Date

Telephone

E-mail

603-569-2429

Case Name:

JOSEPHINE AMAYUC, V. DAVID AMAYUC

Case Number:

N/A

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS**Notice of Protected (Exempt) Sources of Income****PERIODIC PAYMENTS CANNOT BE ORDERED FROM THE FOLLOWING SOURCES OF INCOME
(subject to some exceptions):**

- Social Security Old-Age, Survivors & Disability Insurance Benefits (42, U.S.C. § 407)
- Supplementary Security Income (SSI) for the Aged, Blind and Disabled (42 U.S.C. §407 and §1383(d)(1))
- Unemployment Compensation Benefits (RSA 282-A:159) (Exemption from payment orders except debts incurred for basic needs expenses for you or your family during the period of unemployment.
- Public Assistance Payments to the Blind, Aged or Disabled Persons and Dependent Children (ANB, OAA, APTD and TANF/FANF) (RSA 167:25)
- Veterans Benefits including: Retirement Benefits (10 U.S.C. §1440), Survivors' Benefits (10 U.S.C. §1450), Other Veterans Benefits (38 U.S.C. § 5301(a)), Medal of Honor Veterans Benefits (38 U.S.C. § 1562)
- Workers Compensation Benefits (RSA 281-A:52) (Exemption from payment orders except debts for medical and related care for the compensated injury and claims for legal fees approved by the Superior Court for prosecuting the workers compensation claim.
- Retirement funds including Individual Retirement Accounts, Stock Bonus, Pension, Profit-Sharing, Annuity or Similar Qualified Plan (RSA 511:2(XIX)). Exempt from periodic payments up to \$362.50 per week. If income and expenses are shared with another person with whom you live and the other person also receives income from such a retirement plan or arrangement, the exemption is up to \$725.00 per week.
- Civil Service Retirement Benefits (5 U.S.C. § 83466(a))
- Armed Forces Retirement Pay (10 U.S.C. § 1440)
- Railroad Retirement Act Annuities and Pensions (45 U.S.C. § 231m)
- Fireman's Retirement Pay (RSA 102:23)
- Fireman's Relief Payments (RSA 402:69)
- Foreign Services Retirement and Disability Payments (22 U.S.C. § 4060(c))
- Injury or Death Compensation Payments from War Risk Hazards (42 U.S.C. § 1717) (With exception of monies paid as reimbursement for funeral expenses or as reimbursement with respect to payments of worker's compensation or in the nature of worker's compensation benefits.)
- Lighthouse Keepers Widow's Benefits (33 U.S.C. §775)
- Wages of Fisherman, Seaman and Apprentices (46 U.S.C. § 11109) (With exception for an order of a court about the payment by a master or seaman of any part of the master's or seaman's wages for the support and maintenance of the spouse or minor children of the master or seaman, or both).
- Longshoremen's and Harbor Worker's Compensation Act Death and Disability Payments (33 U.S.C. § 916)

PLEASE NOTE: IF YOU HAVE INCOME FROM ANY OF THE SOURCES LISTED ABOVE, PLEASE BRING VERIFICATION (FOR EXAMPLE, YOUR AWARD LETTER) TO COURT WITH YOU.

None

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

<http://www.courts.state.nh.us>

Court Name: CARROLL Superior Court
 Case Name: JOSEPHINE ANATOCCE V. ATTORNEY DANIEL MULLEN
 Case Number: N/A
 (if known)

**MOTION FOR EXCEPTION FROM ELECTRONIC FILING DUE TO
EXTRAORDINARY CIRCUMSTANCES**

1. Your name: JOSEPHINE ANATOCCE
 Residence address: 350 GOVERNOR WENTWORTH HIGHWAY WHITEBORO 03894
 Mailing address (if different): P.O. Box 242 WHITEBORO FALLS NH 03896
 Telephone number: (603) 569-2429

2. Other party(s) names:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. Do you have access to a computer?

☒ Yes
☐ No

4. Do you have transportation to your local courthouse or to a place where there is a public computer available (i.e. your local library)?

☒ Yes
☐ No

5. Provide any additional information you want the court to consider in this Motion for Exception from Electronic Filing Due to Extraordinary Circumstances:

I AM DESTITUTE. EVERY MONTH I HAVE TO BORROW MONEY
FROM MY LOCAL CHURCH AS I DO NOT MAKE IT FINANCIALLY
TO THE END OF MONTH AFTER PAYING ALL MY BILLS I PAY THEM
WHEN I GET MY SOCIAL SECURITY PAYMENT ON THE 3RD OF EACH MONTH
AND IT CONTINUES EACH AND EVERY MONTH.

Case Name: JOSEPHINE AMATOCCI V. DANIEL MULLEN

Case Number: _____

MOTION FOR EXCEPTION FROM ELECTRONIC FILING – EXTRAORDINARY CIRCUMSTANCES

I state that on this date I provided a copy of this document by U.S. mail or hand-delivery to:

DANIEL MULLEN

or

(other party)

(other party's attorney)

Filing Party's Verification: I verify the truth and accuracy of all facts alleged within this document to the best of my belief and further verify that all facts contained in this document are alleged in good faith. By affixing my electronic signature to this document I acknowledge my understanding that any false statements made in this document are punishable as perjury which may include a fine or imprisonment or both.

Date

OCT 16 2020

Signature

Josephine Amatocci

Name of Filer

JOSEPHINE AMATOCCI

Signature of Filer

Josephine Amatocci

Date

Law Firm, if applicable

Bar ID # of attorney

Telephone

(603) 569-2429

Address

E-mail

City

State

Zip code

FOR COURT USE ONLY:☐ The Motion for Exception from Electronic Filing is hereby **GRANTED**.

Paper filings will be accepted from you. You must forward all filings to the other party via U.S. mail or hand-delivery. See attached instructions.

☐ The Motion for Exception from Electronic Filing is hereby **DENIED**.

You must register/login and provide your valid e-Mail address **within 10 days** or your case/filing is subject to dismissal or default. See attached instructions.

Date

Presiding Justice

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

<http://www.courts.state.nh.us>

Court Name: CARROLL SUPERIOR COURT
 Case Name: JOSEPHINE AMATUCCI V. ATTORNEY DANIEL MULLEN
 Case Number: _____
 (if known)

MOTION FOR WAIVER OF FILING FEE

I, Josephine Amatucci JOSEPHINE AMATUCCI, hereby request that the Court waive the filing fee in this case as I do not have the financial ability to pay these fees at this time.

I have completed a Statement of Assets and Liabilities which is being filed with this motion.

In support of this motion, it is stated as follows:

I CANNOT MAKE IT FINANCIALLY TO THE END OF THE MONTH,
THEREFORE I HAVE TO GO TO MY LOCAL CHURCH WHO ALLOWS
ME TO BORROW MONEY FROM THEM, WHICH I PAY WHEN I
GET MY SOCIAL SECURITY PAYMENT ON THE 3RD OF THE MONTH.
THIS CONTINUES EVERY MONTH.

Wherefore, it is respectfully requested that this Court waive the filing fee in this case.

<u>JOSEPHINE AMATUCCI</u>		<u>Josephine Amatucci</u>	
Name of Filer		Signature of Filer	Date
<u>N/A</u>		<u>(603) 569-2429</u>	
Law Firm, if applicable	Bar ID # of attorney	Telephone	
<u>P.O. Box 272</u>		<u>RT 109 D MEINOCAST. NET</u>	
Address		E-mail	
<u>WOLFEBORO, NH 03896</u>			
City	State	Zip code	

Case Name: _____

Case Number: _____

MOTION FOR WAIVER OF FILING FEES

FOR COURT USE ONLY

☐ Motion Granted.

☐ Motion Denied

☐ Motion granted, in part. Filing fee reduced, party to pay \$ _____

Date

5261

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Josephine Amatucci

v.

Joseph Laplante

CASE NO 934

JUDGE McCAFFERTY

AND REQUEST NOT TO Pay Fee

*AND ALL EVIDENCE I WAS
ARRESTED FOR SPEEDING
AND A VIOLATION OF
SIXTH AMENDMENT
SPEEDY TRIAL
CLAUSE
2 4TH AMEND
MALIS. PROS.
CLAIMS*

1. PLEASE FIND ATTACHED TRANSCRIPT OF HEARING OF CROSS SUMMARY JUDGMENTS, EVIDENCE OF LAPLANTE'S FALSIFICATION OF FACTS AND THE LAW, OF ALLOWING PROBABLE CAUSE TO THE POLICE FOR THE.....STOP.... FOR SPEEDING, WHEN THE ISSUE WAS DID THEY HAVE PROBABLE CAUSE FOR THE "ARREST" FOR SPEEDING, IGNORING THE FOURTH AMENDMENT CLAIM FOR AN UNLAWFUL ARREST FOR SPEEDING. IN HIS BIAS, AND PREJUDICE, AND ACTING OUTSIDE OF HIS JURISDICTION BY ALLOWING MULLEN SUMMARY JUDGMENT BASED ON CHARGES THAT NEVER EXISTED THAT WERE VOID OF NO LEGAL FORCE UNDER THE SIXTH AMENDMENT, SPEEDY TRIAL ACT WHERE THE LONG DETENTION IS A FOURTH AMENDMENT SEIZURE. ALL ACTIONS TO DENY ME MY RIGHT TO DAMAGES FOR TWO FOURTH AMENDMENT UNLAWFUL SEIZURES UNDER 1983

Respectfully,

INCOME

1546.00

Social Security
BIAORDER4511.00
330.00

BILLS

MONTHLY

1. RENT	52.00
2. AARP-UNITED HEALTH INSURANCE	174.50
3. LIBERTY MUTUAL HOUSE INSURANCE AND CAR INSURANCE	181.11
4. PRESCRIPTION DRUG	32.60
5. Metrocast	184.63
6. Fuel (heating)	250.00
7. Santander (Car Payment)	278.83
8. Lawrence Sonski (Bankruptcy)	500.00
9. Electric (Town)	50.00
10. Food	200.00
11. Gas for car	100.00
12. Clothing	50.00

TOTAL 2,084.66

TOTAL INCOME

~~3,084.66~~1,511.50 TOTAL
ONLY Social Security

At end of month I borrow the balance from my church. And it goes on and on.

Santander
CONSUMER USA

ACCOUNT INFORMATION

Account Number 4628746
Account Status Current
Statement Date 10/20/2014
Payment Due Date 11/08/2014
Payment Amount \$278.83
Payments Made 0
Maturity Date 10/08/2020
Past Due Amount \$0.00
Principal \$14,993.00
Accrued Interest \$225.69
Unpaid Fees & Charges \$0.00
Estimated Payoff* \$15,218.69

TOTAL AMOUNT DUE

\$278.83 By **11/08/2014**

*Balance including principal, accrued interest, and unpaid fees and charges as of the Statement Date.

183143



JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY POB 272
WOLFEBORO FALLS, NH 03896



ACCOUNT ALERTS & IMPORTANT MESSAGES

APP

**Payment
Coupon**

Membership Number
314676283-1

Payment is due on or
before the due date.

Due Date

01-01-2015

Amount Due
\$174.50

Insured Member 1

JOSEPHINE S AMATUCCI

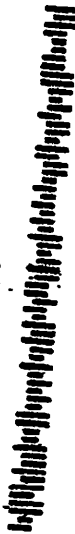
Insured Member 2

Member 2 Coverages

3146762831745001013509143465 2

If you make a payment of
\$2070.00 by January 31 for
the full year, you'll save
\$24! Call if you have any
questions: 1-800-523-5500.

PO BOX 680231
DALLAS TX 75266-0231



PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO UNITED FARMERS LIFE INSURANCE COMPANY.
PLEASE USE THE ENVELOPE PROVIDED TO RETURN COUPON AND PAYMENT.

1ST INSTALLMENT: \$	4
2ND INSTALLMENT: \$	4
TOTAL PAYMENTS: \$	
<hr/>	
AMOUNT DUE \$	9
BY DEC 19, 2017	

ZNR 1 AM 8.303 EPHRAH WASH 250425Z NOV 22 PRIORITY 00010001

**Town of Wallaboro
P.O. Box 629
Wallaboro, NH 03894-0629**

PLEASE DETACH AND RETURN ABOVE PORTION WITH YOUR PAYMENT. MAKE CHECK PAYABLE TO THE TOWN OF WOLFEBORO.

REAL ESTATE TAX BILL
84 SOUTH MAIN STREET P.O. BOX 629
WOLFEBORO, NH 03094-0629

OFFICE HOURS
MONDAY - FRIDAY : 8:00AM - 4:00PM
TELEPHONE (803) 568-3902
email : info@coloradocraftsboros.us

TAX YEAR: 2017
ACCOUNT NUMBER: 10-3996-701

TAX MAP LOT NUMBER: 151-21

PROPERTY LOCATION: 350 GOV WENTWORTH HWY

WOLFEBORO FALLS NR 03895-0272

	TAX RATES	TOTAL VALUATION	AMOUNT	ASSESSMENT INFORMATION	TAX INFORMATION
MUNICIPAL	5.760	\$64,500	\$371.00	BUILDING VALUE \$70,000	GROSS TAX \$966.00
SCHOOL-LOCAL	5.550	\$64,500	\$357.00	LAND VALUE \$84,500	CREDITS
SCHOOL-STATE	2.280	\$64,500	\$147.00	TOTAL VALUE \$154,500	NET TAX \$966.00
COUNTY	1.390	\$64,500	\$89.00	EXEMPTIONS	FIRST BILL \$472.00
					SECOND BILL \$494.00
TOTAL	14.980	\$64,500	\$966.00	TAXABLE VALUE \$64,500	PAYMENTS
				AMOUNT DUE BY DEC 19, 2017	\$966.00

**F PAID AFTER DUE DATE ANNUAL INTEREST RATE OF 12% WILL BE CHARGED
PRIOR YEARS TAXES DO NOT INCLUDE ACCUMULATED INTEREST OR COSTS
PLEASE CONTACT THE TAX OFFICE FOR UPDATED AMOUNTS**

IMPORTANT NOTICE TO ALL TAXPAYERS:

IF YOU ARE ELDERLY, DISABLED, BLIND, A VETERAN, OR VETERAN'S SPOUSE, OR ARE UNABLE TO PAY TAXES DUE TO POVERTY OR OTHER GOOD CAUSE, YOU MAY BE ELIGIBLE FOR A TAX EXEMPTION, CREDIT, ABATEMENT, OR DEFERRAL. FOR DETAILS AND APPLICATION INFORMATION, CONTACT THE ASSESSING DEPARTMENT. (CONTACT AND ADDITIONAL INFORMATION ON REVERSE SIDE OF THIS BILL.)

PLEASE SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

Abstract

RX

811AD58LPO01D001-00000-02

November 08, 2017

Member ID: 017354256-1

**You have a past due amount.
Please pay so you don't lose
your plan.**

Dear JOSEPHINE S AMATUCCI,

We want to let you know that you have a past due amount on your AARP MedicareRx Saver Plus (PDP) account. As of November 08, 2017, you owe \$65.20. Please pay this amount upon receipt so that you won't be disenrolled.

What happens if I don't pay?

If we don't receive payment for the past due amount and each month's premium (monthly charge) by December 31, 2017, we will have to disenroll you from AARP MedicareRx Saver Plus (PDP) effective December 31, 2017. After December 31, 2017, you will no longer be covered by AARP MedicareRx Saver Plus (PDP). However, your other Medicare benefits will not be affected if you are disenrolled from AARP MedicareRx Saver Plus (PDP).

Premium payments

Your premium is due on the first of each month. If we don't receive your payment by the first of each month, it will be added to your past due amount.

If you wish to pay your next month's premium today with the past due amount, here is the total:

Past due amount

\$65.20

Premium (monthly charge)

\$12.00

Upon receipt
December 31, 2017

MetroCast

METROCAST CABLEVISION
 9 APPLE RD BELMONT NH 03220-3251
 8882 1800 WMFP 06 11072017 NHDUNYNN 01 000176 0029
 JOSEPHINE AMATUCCI
 PO BOX 272
 WOLFEBORO FALLS NH 03896-0272



Statement of Service

Page 1 of 3

Billing Date: November 6, 2017
 Account Number: 8252 16 019 0036339

How to reach us

Office hrs M-F 8:00am-5:00pm
 Sat 8am-4:00pm www.MetroCast.com
 Phone hrs 24/7 1-800-882-1001

For Service At...

350 GOVERNOR WENTWORTH HWY
 WOLFEBORO NH 03894-4835

Account Summary

Your account is past due. Please remit the total balance due immediately to avoid a \$25.00 collection effort charge or disconnection of service. If payment was made after the remittance date, please disregard this message. Thank you.

Please see reverse side for account details.

Previous Balance	\$ 884.79
Payment(s)	-189.58
Monthly Charge(s)	167.21
Other Charge(s)	8.00
Taxes & Fee(s)	8.88
Balance Due	\$ 892.68
Payment Due Date	Upon Receipt



**Liberty
Mutual.**
INSURANCE

Your Bill is Past Due.

We have not received your payment as of 04/06/2020. Please pay total amount due to avoid possible interruption to your coverage.

THIS IS YOUR HOME INSURANCE BILL AS OF APRIL 06, 2020

QUESTIONS

Questions Regarding Your Policy or Bill?

1-800-225-8285

Want to Pay Online?

LibertyMutual.com/service

Need to Report a Claim?

1-800-2CLAIMS (1-800-225-2467)

Mail Check to:

Liberty Mutual Group
PO BOX 1452
New York, NY 10116-1452

Save Time & Money

Eliminate installment charges by paying your balance in full.



PAYMENT COUPON

Please send all payments in the envelope provided.
Please make check payable to: Liberty Mutual Group



**Save time and money by signing up for automatic payments via your bank account at: LibertyMutual.com/autopay
Or pay your bill online at: LibertyMutual.com/pay**

Lost your envelope? Mail check to:

**Liberty Mutual Group
PO BOX 1452
New York, NY 10116-1452**

JOSEPHINE AMATUCCI

Due Date: April 26, 2020

Policy Number: H37-218-117400-70

Invoice Number: 00000285724331

➔ **PAY POLICY IN FULL: \$128.27**

QR

PAY AMOUNT DUE: \$128.27

Amount Enclosed:

\$								
----	--	--	--	--	--	--	--	--

April 4, 2016

Josephine Amato

POB 272

Woburn Falls, NH 03086

RE Chapter 13 #15-11858-BAH

Dear Ms. Amato:

We do not process Plan payments at our office. Checks need to be sent to our Lock Box in Memphis, Tennessee. I am therefore returning your check #2358206376 in the amount of \$299.00 dated April 2, 2016. *Per 40 years*

Please send all Plan payments to the following address:

Lawrence P. Sunski

Chapter 13 Trustee

PO Box 839

Memphis, TN 38101-0839

PLEASE include your case number!

The address for correspondence only is:

Lawrence P. Sunski

Chapter 13 Trustee

1000 Elm Street, Suite 1002

Manchester, NH 03101

Please call if you have any question regarding this.

Yours truly,

/s/ Lawrence P. Sunski

Lawrence P. Sunski

LPStc

Telephone (603) 625-2399
E-Mail: SunskiLP@comcast.com

*Don't pay
549-3142
Koreen*

*Whitman
Perkins*

*CA
Ker*



PO Box 818061
5801 Postal Road
Cleveland, OH 44181



STATEMENT PRINT DATE

9/2/20

LOAN NUMBER

0001034549

FOR THE MONTH ENDING

8/31/20

**DEFAULT
BALANCE:****\$2,497.63**

PAYMENT PLAN

Line of Credit

PROPERTY ADDRESS

**350 Governor Wentworth
Hwy
Wolfeboro, NH 03894**

LOAN STATUS:

BANKRUPTCY

LOAN TYPE:

HECM

4870 1 AB 0.419 T20 P2 AUTO 458789.3-NNNN-30430943

JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY
WOLFEBORO, NH 03894

QUESTIONS? WE'RE HERE TO HELP.CUSTOMER SERVICE **855-683-3095**

Monday through Thursday 9am / 5pm (ET)

Friday 9am / 5pm (ET)

www.championmortgage.com

Mailing Address

P.O. Box 619093

Dallas, TX

75261-9093

ACCOUNT OVERVIEW

	Prior Month Interest Rate	Current Month Interest Rate	MIP
Daily	00 01525%	00 01525%	00 00137%
Monthly	00 46445%	00 46445%	00 04167%
Annual	0% 56000%	0% 56000%	00 50000%

THIS IS NOT A BILL**MESSAGE CENTER**

Visit www.championmortgage.com for a complete understanding your monthly mortgage statement. Please click on the tab under "Tools" and click on the link named "How do I read and understand my monthly statement?"

Have you entered into a Real Estate Tax Deferral Program? If so, you are required to notify Champion Mortgage of this election.

BALANCE SUMMARY as of 8/31/20

Current Month Principal Limit	\$319,750.43
-Current Loan Balance	\$397,687.35
-Servicing Fee Set Aside	\$3,000.00
-Repairs Set Aside	\$0.00
-Tax and Insurance Set Aside	\$0.00
-First Year Property Charge Set Aside	\$0.00
Net Principal Limit	\$0.00
Current Loan Balance	\$397,687.35
+Corporate Advances	\$0.00
Total Loan Balance with Advances	\$397,687.35

Prior Month Available Line of Credit	\$0.00
Repairs Set Aside	\$0.00
Tax and Insurance Set Aside	\$0.00
First Year Property Charge Set Aside	\$0.00
Available Line of Credit	\$0.00

INTEREST RATE CHANGE NOTICE

The interest rate on your reverse mortgage is fixed at the rate listed above over the life of your loan.



PO Box 818061
5801 Postal Road
Cleveland, OH 44181

REVERSE MORTGAGE MONTHLY STATEMENT

STATEMENT PRINT DATE: 8/3/20 FOR THE MONTH ENDING: 7/31/20

LOAN NUMBER:
0001034549

**DEFAULT
BALANCE:**
\$3,035.83

PAYMENT PLAN:
Line of Credit
PROPERTY ADDRESS:
350 Governor Wentworth
Hwy
Wolfeboro, NH 03894

LOAN STATUS:
BANKRUPTCY
LOAN TYPE:
HECM

273 1 MB 0.439 T2 P1 AUTO 433638.5-NNNN-30414334

JOSEPHINE AMATUCCI
350 GOVERNOR WENTWORTH HWY
WOLFEBORO, NH 03894

QUESTIONS? WE'RE HERE TO HELP.

CUSTOMER SERVICE: 855-683-3095
Monday through Thursday from 7 a.m. to 7 p.m. (C.T.)
Friday from 7 a.m. to 5 p.m. (C.T.)
www.championmortgage.com

Main Office Address:
P.O. Box 619093
Dallas, TX
75261-9093

ACCOUNT OVERVIEW

	Prior Month Interest Rate	Current Month Interest Rate	MIP
Daily	00.01523%	00.01523%	00.00137%
Monthly	00.46333%	00.46333%	00.04167%
Annual	05.56000%	05.56000%	00.50000%

THIS IS NOT A BILL

MESSAGE CENTER

Visit www.championmortgage.com for assistance in reading your monthly mortgage statement, please click on the tab under "FAQ" and click on the "FAQ" link next to "How do I read and understand my monthly statement?"

Have you entered into a Real Estate Tax Deferral Program? If so, you are required to notify Champion Mortgage of this election.

BALANCE SUMMARY as of 7/31/20

Current Month Principal Limit	\$319,750.43	Prior Month Available Line of Credit	\$0.00
-Current Loan Balance	\$396,196.49	Repair Set Aside	\$0.00
-Servicing Fee Set Aside	\$3,979.44	Tax and Insurance Set Aside	\$0.00
-Repairs Set Aside	\$0.00	First Year Property Charge Set Aside	\$0.00
-Tax and Insurance Set Aside	\$0.00	Available Line of Credit	\$0.00
-First Year Property Charge Set Aside	\$0.00		
Net Principal Limit	\$0.00		
Current Loan Balance	\$396,196.49		
+Corporate Advances	\$0.00		
Total Loan Balance with Advances	\$396,196.49		

Your New Benefit Amount

BENEFICIARY'S NAME: JOSEPHINE S AMATUCCI

Your Social Security benefits will increase by 2.8% in 2019 because of a rise in the cost of living. You can use this letter as proof of your benefit amount if you need to apply for food, rent, or energy assistance. You can also use it to apply for bank loans or for other business. Keep this letter with your important financial records.

How Much Will I Get And When?

- Your monthly amount (before deductions) is **\$1,646.50**
- The amount we deduct for Medicare Medical Insurance is **\$135.50**
(If you did not have Medicare as of November 16, 2018, or if someone else pays your premium, we show \$0.00.)
- The amount we deduct for your Medicare Prescription Drug Plan is **\$0.00**
(We will notify you if the amount changes in 2019. If you did not elect withholding as of November 1, 2018, we show \$0.00.)
- The amount we deduct for voluntary Federal tax withholding is **\$0.00**
(If you did not elect voluntary tax withholding as of November 16, 2018, we show \$0.00.)
- After we take any other deductions, you will receive **\$1,511.00**
on or about January 3, 2019.

If you disagree with any of these amounts, you must write to us within 60 days from the date you receive this letter. Or visit www.ssa.gov/non-medical/appeal to appeal online. We would be happy to review the amounts.

If you receive a paper check and want to switch to an electronic payment, please visit the Department of the Treasury's Go Direct website at www.godirect.org online.

What If I Have Questions?

- Visit our website at www.socialsecurity.gov
- Call us toll-free at 1-800-772-1213 (TTY 1-800-325-0778)

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: CARROLL SUPERIOR COURT U.S. Dist. CT
 Case Name: JOSEPHINE ANATUCCI V. ATTORNEY DANIEL MULLEN
 Case Number: _____
 (if known)

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS

1. Name: JOSEPHINE ANATUCCI DOB: 9/27/38
 2. Residence Address: 350 FOXBORO WENTWORTH HIGHWAY WOLFEBORO 03894
 3. Mailing Address (if different): P.O. 272 WOLFEBORO FALLS N.H. 03896
 4. Marital Status: ☐ Single ☐ Married ☐ Separated ☐ Widowed
 5. List the names, ages, relationships of dependents you support:

N/A

6. If you are presently employed, state where and for how long: N/A ☐ Full-Time ☐ Part-Time
 7. If unemployed, state last date of employment: YEARS & YEARS AGO
 8. When do you anticipate new employment? NEVER I AM 82 YEARS OLD
 9. If your spouse is presently employed, state where and for how long? N/A WIDOW ☐ Full-Time ☐ Part-Time
 10. If spouse unemployed, state last date of employment: N/A
 11. List other employed household members and their weekly income: NONE

12. Please state weekly take-home amount

	Yours	Spouse's
Salary/Wages	\$ <u>N/A</u>	\$ _____
Child Support	\$ <u>N/A</u>	\$ _____
Alimony	\$ <u>N/A</u>	\$ _____
Trust Benefits	\$ <u>N/A</u>	\$ _____
Investment Income	\$ <u>N/A</u>	\$ _____
Other	\$ <u>N/A</u>	\$ _____
*Social Security	\$ <u>1,511.50</u>	\$ _____
*Welfare Benefits	\$ <u>N/A</u>	\$ _____
*Veteran's Benefits	\$ <u>N/A</u>	\$ _____
*Pension	\$ <u>N/A</u>	\$ _____
**Unemployment Compensation	\$ <u>N/A</u>	\$ _____
**Worker's Compensation	\$ <u>N/A</u>	\$ _____
Total	1,511.50	\$ _____

13. What money is presently available to you?

Cash on hand	\$ _____	\$ <u>40.00</u>
Checking account	\$ _____	\$ _____
Savings account	\$ _____	\$ _____
Stocks/Bonds/IRA/Pension	\$ _____	\$ _____
Total	\$ _____	\$ _____

Case Name: _____

Case Number: _____

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS

14. Please state your monthly household expenses:

Rent/Mortgage	\$ _____	Cell Phone	\$ _____
Property Taxes	\$ _____	Clothing	\$ _____
Heat	\$ _____	Transportation	\$ _____
Food	\$ _____	(including gas, maintenance, insurance, repairs)	
Utilities	\$ _____	Other (specify)	
Medical/Dental	\$ _____		\$ _____
Insurance	\$ _____		\$ _____
Total	\$ _____		

15. List any real estate you own, its market value and the amount you owe:

350 GOVERNOR WENTWORTH HIGHWAY, WOLFEBORO
MARKET VALUE UNKNOWN - REVERSE MORTG - OWE 394,687.35

16. List any vehicles you own (car, truck, boat, motorcycle, snowmobile, RV), their market value and the amount you owe:

2012 NISSAN VERSA - UNKNOWN VALUE - OWE ABOUT \$2500.00

17. List income tax paid last year: \$ YEARS & YEARS AGO18. List income tax refund received last year: \$ NONE

19. Other than monthly household expenses, list any bills you owe, amount owed, to whom, and monthly payment:

SEE ATTACHED

20. List which of your bills are court-ordered payments (i.e. alimony, judgment in a law suit, etc.):

SEE ATTACHED BANKRUPTCY & SANTANOE

21. Other than those previously mentioned, list anyone to whom you owe money, amount and when it is due:

N/A

22. If anyone owes you money, state name, address, amount due, and when due:

JUDITHS OWE ME MONEY N/A

23. List any property you have transferred within the last three years, to whom and for what price:

N/A

24. List any other assets or expenses not previously mentioned:

N/A

* Exempt income – The Court may not consider this income. If this represents the sole source of income, the court may not issue a payment order.

** Potentially/partially exempt income – The Court may be unable to consider this income. Based upon the facts of the case, the Court may or may not issue a payment order.

Case Name: _____

Case Number: _____

STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS**For non e-filed cases:**

I state that on this date I am ☒ mailing by U.S. mail, or ☐ Email (only when there is a prior agreement of the parties to use this method), or ☐ hand delivering a copy of this document to:

Daniel Mullen

Other party

Other party's attorney

OR**For e-filed cases:**

☐ I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

JOSEPHINE ANATUCCI

Name of Filer

N/A

Law Firm, if applicable

Bar ID # of attorney

Address

JOSEPHINE - P.O. BOX 272
WOLF BORO FALLS, N.H. 03896

City

State

Zip code

Josephine Anatucci

Signature of Filer

Date

Telephone

603-569-2429

E-mail

Case Name:

JOSEPHINE AMAYCE, V. DAVID ANDERSON

Case Number:

*N/A***STATEMENT OF ASSETS AND LIABILITIES FOR INDIVIDUALS AND SOLE PROPRIETORS****Notice of Protected (Exempt) Sources of Income****PERIODIC PAYMENTS CANNOT BE ORDERED FROM THE FOLLOWING SOURCES OF INCOME
(subject to some exceptions):**

- Social Security Old-Age, Survivors & Disability Insurance Benefits (42, U.S.C. § 407)
- Supplementary Security Income (SSI) for the Aged, Blind and Disabled (42 U.S.C. §407 and §1383(d)(1))
- Unemployment Compensation Benefits (RSA 282-A:159) (Exemption from payment orders except debts incurred for basic needs expenses for you or your family during the period of unemployment.
- Public Assistance Payments to the Blind, Aged or Disabled Persons and Dependent Children (ANB, OAA, APTD and TANF/FANF) (RSA 167:25)
- Veterans Benefits including: Retirement Benefits (10 U.S.C. §1440), Survivors' Benefits (10 U.S.C. §1450), Other Veterans Benefits (38 U.S.C. § 5301(a)), Medal of Honor Veterans Benefits (38 U.S.C. § 1562)
- Workers Compensation Benefits (RSA 281-A:52) (Exemption from payment orders except debts for medical and related care for the compensated injury and claims for legal fees approved by the Superior Court for prosecuting the workers compensation claim.
- Retirement funds including Individual Retirement Accounts, Stock Bonus, Pension, Profit-Sharing, Annuity or Similar Qualified Plan (RSA 511:2(XIX)). Exempt from periodic payments up to \$362.50 per week. If income and expenses are shared with another person with whom you live and the other person also receives income from such a retirement plan or arrangement, the exemption is up to \$725.00 per week.
- Civil Service Retirement Benefits (5 U.S.C. § 83466(a))
- Armed Forces Retirement Pay (10 U.S.C. § 1440)
- Railroad Retirement Act Annuities and Pensions (45 U.S.C. § 231m)
- Fireman's Retirement Pay (RSA 102:23)
- Fireman's Relief Payments (RSA 402:69)
- Foreign Services Retirement and Disability Payments (22 U.S.C. § 4060(c))
- Injury or Death Compensation Payments from War Risk Hazards (42 U.S.C. § 1717) (With exception of monies paid as reimbursement for funeral expenses or as reimbursement with respect to payments of worker's compensation or in the nature of worker's compensation benefits.)
- Lighthouse Keepers Widow's Benefits (33 U.S.C. §775)
- Wages of Fisherman, Seaman and Apprentices (46 U.S.C. § 11109) (With exception for an order of a court about the payment by a master or seaman of any part of the master's or seaman's wages for the support and maintenance of the spouse or minor children of the master or seaman, or both).
- Longshoremen's and Harbor Worker's Compensation Act Death and Disability Payments (33 U.S.C. § 916)

PLEASE NOTE: IF YOU HAVE INCOME FROM ANY OF THE SOURCES LISTED ABOVE, PLEASE BRING VERIFICATION (FOR EXAMPLE, YOUR AWARD LETTER) TO COURT WITH YOU.

NONE

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

<http://www.courts.state.nh.us>

Court Name: CARROLL Superior Court
Case Name: JOSEPHINE ANATOCCE V. ATTORNEY DANIEL MULLEN
Case Number: N/A
(if known)

**MOTION FOR EXCEPTION FROM ELECTRONIC FILING DUE TO
EXTRAORDINARY CIRCUMSTANCES**

1. Your name: JOSEPHINE ANATOCCE
Residence address: 350 GOVERNOR WENTWORTH HIGHWAY WHITEBORO 03894
Mailing address (if different): P.O. Box 272, WHITEBORO FALLS NH 03896
Telephone number: (603) 569-2429

2. Other party(s) names:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. Do you have access to a computer?

☒ Yes
☐ No

4. Do you have transportation to your local courthouse or to a place where there is a public computer available (i.e. your local library)?

☒ Yes
☐ No

5. Provide any additional information you want the court to consider in this Motion for Exception from Electronic Filing Due to Extraordinary Circumstances:

I AM DESTITUTE. EVERY MONTH I HAVE TO BORROW MONEY
FROM MY LOCAL CHURCH AS I DO NOT MAKE IT FINANCIALLY
TO THE END OF MONTH AFTER PAYING ALL MY BILLS. I PAY THEM
WHEN I GET MY SOCIAL SECURITY PAYMENT ON THE 3RD OF EACH MONTH
AND IT CONTINUES EACH AND EVERY MONTH.

Case Name: JOSEPHINE ANATOCES V. DANIEL MULLEN Judge LA PLANTE

Case Number: _____

MOTION FOR EXCEPTION FROM ELECTRONIC FILING – EXTRAORDINARY CIRCUMSTANCES

I state that on this date I provided a copy of this document by U.S. mail or hand-delivery to:

DANIEL MULLEN or _____
(other party) (other party's attorney)

Filing Party's Verification: I verify the truth and accuracy of all facts alleged within this document to the best of my belief and further verify that all facts contained in this document are alleged in good faith. By affixing my electronic signature to this document I acknowledge my understanding that any false statements made in this document are punishable as perjury which may include a fine or imprisonment or both.

Date OCT 14 2020Signature Josephine AnatocesName of Filer JOSEPHINE ANATOCESSignature of Filer Josephine Anatoces

Date _____

Law Firm, if applicable _____ Bar ID # of attorney _____

Telephone (603) 569-2429

Address _____

E-mail _____

City _____ State _____ Zip code _____

FOR COURT USE ONLY:

- ☐ The Motion for Exception from Electronic Filing is hereby **GRANTED**.
Paper filings will be accepted from you. You must forward all filings to the other party via U.S. mail or hand-delivery. See attached instructions.
- ☐ The Motion for Exception from Electronic Filing is hereby **DENIED**.
You must register/login and provide your valid e-Mail address **within 10 days** or your case/filing is subject to dismissal or default. See attached instructions.

Date _____

Presiding Justice _____

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

<http://www.courts.state.nh.us>

Court Name: CARROLL SUPERIOR COURT
 Case Name: JOSEPHINE AMATUCCI V. ATTORNEY DANIEL MULLEN
 Case Number: _____
 (if known)

MOTION FOR WAIVER OF FILING FEE

I, Josephine Amatucci JOSEPHINE AMATUCCI, hereby request that the Court waive the filing fee in this case as I do not have the financial ability to pay these fees at this time.

I have completed a Statement of Assets and Liabilities which is being filed with this motion.

In support of this motion, it is stated as follows:

I CANNOT MAKE IT FINANCIALLY TO THE END OF THE MONTH,
THEREFORE I HAVE TO GO TO MY LOCAL CHURCH WHO ALLOWS
ME TO BORROW MONEY FROM THEM, WHICH I PAY WHEN I
GET MY SOCIAL SECURITY PAYMENT ON THE 3RD OF THE MONTH.
THIS CONTINUES EVERY MONTH.

Wherefore, it is respectfully requested that this Court waive the filing fee in this case.

<u>JOSEPHINE AMATUCCI</u>		<u>Josephine Amatucci</u>	
Name of Filer		Signature of Filer	Date
<u>N/A</u>		<u>(603) 569-2429</u>	
Law Firm, if applicable	Bar ID # of attorney	Telephone	
<u>P.O. Box 272</u>		<u>RT 109 W METROCAST. NET</u>	
Address		E-mail	
<u>WOLFEBORO, NH 03896</u>			
City	State	Zip code	

Case Name: _____

Case Number: _____

MOTION FOR WAIVER OF FILING FEES

FOR COURT USE ONLY

☐ Motion Granted.

☐ Motion Denied

☐ Motion granted, in part. Filing fee reduced, party to pay \$ _____

Date

There's NO PROBABLE
CAUSE TO ARREST
SLEDGINS IN N.H.

P. 11 & 13
FRAUD
POLYGRAPHIC

P. 18-21
CAMP
P. 24

EXHIBIT
0
1078560

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

I WAS NEVER GIVEN THE RIGHT TO AN ARREST FOR TAPPING PHONE.

JOSEPHINE AMATUCCI

Plaintiff, P. 32

v.

TOWN OF WOLFEBORO, SHANE
EMERSON and STUART CHASE

Defendants.

COPY

1:17-cv-237-JL
September 24, 2018
10:28 a.m.

P. 28 - OFFICIAL
P. 30 -
SPIN

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE JOSEPH N. LAPLANTE

Appearances:

P. 51
NOT AT ISSUE

P. 33 RECORD
P. 35
A SET UP
39
P. 40

Appearing Pro Se: Josephine Amatucci

P. 51 SHE TRIED TO WITHDRAW HER STATE LAW CLAIMS
BUT I REFUSE

For the Defendants: Daniel J. Mullen, Esq.
Ransmeier & Spellman

P. 8

Mark H. Puffer, Esq.
Preti Flaherty Beliveau Pachios LLP

P. 37 JUDGE SAID I WAS ON

P. 34

Court Reporter:

Liza W. Dubois, RMR, CRR
Official Court Reporter
U.S. District Court
55 Pleasant Street
Concord, New Hampshire 03301
(603) 225-1442

P. 61
I EXHAUSTED MY
REMEDIES

MOVING - MOVE ON TO NEXT ARGUMENT P. 14

W. L. 16

Page 2

PROCEEDINGS

THE CLERK: The Court has before it for consideration this morning a motion hearing in civil case 17-cv-237-JL, Amatuucci versus Chase, et al.

THE COURT: All right. We're here for a hearing on the motions for summary judgment.

Mrs. Amatuucci has two motions for summary judgment, documents 109 and 123. *NEW SUMMARY JUDG. DID NOT INCLUDE ANY STATE LAW ONLY UNDER FED. LAW*

Defendants objected to that and defendants have their own motion for summary judgment, document number 138.

This morning Mrs. Amatuucci filed a motion for leave to file I guess a new one -- a motion for leave to file a summary judgment document that's never been ruled on --

MS. AMATUCCI: That's not -- that's not a new one.

THE COURT: Yeah, it's the old one. Right.

MS. AMATUCCI: It's -- it's -- it's -- it's adding what you required. You said that I have to put those issues in my heading, so I put them in.

Now, let's make it clear --

THE COURT: That's granted.

MS. AMATUCCI: -- I did not -- what?

THE COURT: I'm going to grant this. This is

2 / 1

1 granted.

2 THE CLERK: Thank you, Judge.

3 THE COURT: So you have leave to file this.
4 You're good to go.

5 It says Motion for Leave to File --

6 MS. AMATUCCI: Wait. Let's get it clear. I
7 did not file two summary judgments. I filed one because
8 the original one, I dismissed it --

9 THE COURT: That's true.

10 MS. AMATUCCI: -- in court.

11 THE COURT: Yeah.

12 MS. AMATUCCI: So, actually, you should have
13 never let these lawyers respond to two summary judgments
14 when there was only one.

15 THE COURT: Okay.

16 MS. AMATUCCI: Could I get a few things clear
17 before we start?

18 THE COURT: Sure. But I've got to make one
19 more thing clear first.

20 The Court ordered the defendants to provide
21 some discovery after reviewing the file after the last
22 hearing.

23 Did you provide the discovery?

24 MR. MULLEN: I gave Ms. AmatuCCI a packet from
25 the town of Wolfeboro today and I also met Assistant

4.

1 Attorney General Galdieri who gave (me) redacted copies of
2 the pages that you ordered -- gave in your order.

3 It was our understanding that you were going
4 to provide Mrs. AmatuCCI with the rest of the AG
5 documents because I don't have them.

6 THE COURT: Okay.

7 MS. AMATUCCI: Are you saying that these are
8 the documents -- these are the police files?

9 THE COURT: Yes.

10 MS. AMATUCCI: These are -- these are what
11 were in the town, what the town gave you, handed you --

12 THE COURT: This is --

13 MS. AMATUCCI: -- when you requested the files
14 for the investigations?

15 THE COURT: Yes. What happened was the --
16 like my orders say, the defendants provided me the
17 records from the town and the police department and the
18 Attorney General provided (me) their file. I looked at
19 everything very carefully and I ordered that it be
20 produced to you. And --

21 MS. AMATUCCI: When did you do that?

22 THE COURT: I think it was Friday.

23 THE CLERK: Friday afternoon, Judge.

24 THE COURT: Friday afternoon.

25 MS. AMATUCCI: But you didn't tell me. What

1 did you do? You called them?

2 THE COURT: No, I think I just issued an
3 order.

4 THE CLERK: We mailed out the order, Judge, on
5 Friday afternoon, so Ms. AmatuCCI probably hasn't
6 received it yet.

7 THE COURT: Oh. Oh, she doesn't have ECF?

8 THE CLERK: She does not, Judge.

9 THE COURT: Ah, well, I ordered them -- those
10 are the records you requested in discovery. And I
11 ordered -- I read them and ordered that they be produced
12 to you on Friday. And they've been produced to you,
13 apparently.

14 MS. AMATUCCI: So this is everything?

15 THE COURT: It's everything except it sounds
16 like the lawyers just told me that the Attorney
17 General's records that you have --

18 MS. AMATUCCI: I don't care about the Attorney
19 General, her records.

20 THE COURT: I don't care if you don't care.
21 Let me finish my sentence.

22 MS. AMATUCCI: Yeah.

23 THE COURT: Stop interrupting me. We're not
24 going to go down this road today of you interrupting me.
25 I'm telling you to stop. Because you're entitled to

5 (c)

1 this information, so I want to make sure you get it.

2 (They've provided me redacted copies from the
3 Attorney General. I'm providing you with unredacted
4 copies that we have apparently and I will -- I'll get
5 you those copies with no redactions. Okay?

6 MS. AMATUCCI: I'm surprised.

7 THE COURT: Okay.

8 MS. AMATUCCI: Okay.

9 THE COURT: Now, there's --

10 MS. AMATUCCI: Now, an important issue --

11 THE COURT: I'm not done.

12 My order -- I want to amend my order of the
13 21st where I granted your motion to seal the defendant's
14 motion to seal the -- I want to unseal the memorandum,
15 document number 162, and the privilege log document,
16 162-1, and I want to provide those documents to
17 Mrs. Amatucci. Let's give them to her today --

18 THE CLERK: Okay, judge.

19 THE COURT: -- after the hearing.

20 Okay. Now, go ahead.

21 MS. AMATUCCI: Okay. I want to make it clear
22 that the reason why you said you wasn't going to do
23 anything but have a hearing was because of the two
24 issues that I had to -- I had to do, which I handed you
25 this morning, that I had to add -- that I had asked you

6 (c)

7

1 to accept my summary judgment and I had to put that you
2 never -- you never decided a summary judgment. That's
3 what you said was keeping you from -- from allowing my
4 summary judgment today, which you're going to do. You
5 are going to allow my summary judgment.

6 And we will talk about that and I -- I -- they
7 have issues that are holding back -- that might be
8 holding back claims that might be holding back my
9 summary judgment and I have reviewed them and their
10 summary judgment motion --

11 THE COURT: Yeah.

12 MS. AMATUCCI: -- and I'd like to talk
13 about -- talk about what they're saying, why -- what
14 their defenses are. And we have to review that first to
15 show that they -- they have no defenses to my --

16 THE COURT: Right.

17 MS. AMATUCCI: -- my claim.

18 THE COURT: That's what today's hearing is
19 about, yes. Do you want to go first?

20 MS. AMATUCCI: Yeah, all right.

21 THE COURT: Okay.

22 MS. AMATUCCI: Okay. This is a review of
23 their summary judgment.

24 They said that the crux of her claims is
25 failure to investigate police misconduct. That's not

7 (c)

1 true.

2 The -- the reason -- the Monell claim is based
3 not on the -- not on the town refusing to investigate
4 police misconduct, but it's based on the fact that
5 policymakers of the town were the cause for
6 my -- the violation of my Fourth Amendment malicious
7 prosecution. That is the basis of my claim. It's
8 not -- on my Monell claim.

9 So when they say the whole claim is about
10 failure to investigate police misconduct --

11 THE COURT: Uh-huh.

12 MS. AMATUCCI: -- they're wrong. And I -- I
13 stated that in several of my motions, that -- in fact,
14 in my summary judgment, that's the first thing I talked
15 about.

16 THE COURT: Tell me a little bit more about
17 that one.

18 So you're saying that it's not about that
19 there's a town policy to refuse to investigate these
20 types of claims.

21 MS. AMATUCCI: Yeah.

22 THE COURT: What exactly is it?

23 MS. AMATUCCI: It's about -- let me -- it's
24 about that the policymakers of the town, who are Chase
25 and the prosecutor --

8 (c)

1 THE COURT: Yeah.

2 MS. AMATUCCI: -- Tim Morgan --

3 THE COURT: Yup.

4 MS. AMATUCCI: -- they are the direct and
5 proximate causal link of my injuries, of my prosecution,
6 my unlawful prosecution, my unlawful detention, and
7 deliberate indifference in their practices and policies.
8 And in doing so, they violated my Fourth Amendment
9 constitutional right to be free from unlawful seizures.

10 THE COURT: I see.

11 MS. AMATUCCI: And that is the -- that is the
12 crux of my --

13 THE COURT: It's that -- okay. It's that
14 Chase and Morgan, as policymakers, were responsible for
15 this violation of your Fourth Amendment rights?

16 MS. AMATUCCI: Direct -- directly responsible.

17 THE COURT: All right. All right.

18 MS. AMATUCCI: Okay?

19 THE COURT: Yeah.

20 MS. AMATUCCI: Another thing I'd like --
21 before I continue with their defenses -- you know what I
22 have to make clear?

23 THE COURT: What?

24 MS. AMATUCCI: No, I'll make it clear when we
25 come to it.

1 All right. That was their first dispute.

2 Their second dispute -- you know what? Why
3 don't you clear this up right now. What is your -- how
4 do you interpret this? You know, what are you going
5 to -- I did this -- I said this in my summary judgment
6 on the first page, that this was my -- my -- the crux of
7 my claims. It was not -- although, you know, they did
8 not investigate, I have proof, but my claim is based on
9 policymakers' actions.

10 THE COURT: Your Monell claim?

11 MS. AMATUCCI: What?

12 THE COURT: Your Monell claim?

13 MS. AMATUCCI: Yeah.

14 THE COURT: Okay. XXX

15 MS. AMATUCCI: And, really, the -- even the
16 Fourth Amendment claim. It's the same thing. I mean,
17 they caused that violation. They were the proximate
18 cause, the proximate cause.

19 THE COURT: Yeah. I understand your point.
20 It's just that I want to make sure you understand.

21 I think the reason that they are framing the
22 claim that way is that for there to be -- it's one thing
23 for there to be liability against the people involved --
24 right? -- the defendants that you've sued. They can be
25 liable under some circumstances that you have to prove

10 (c)

1 in court.

2 MS. AMATUCCI: I'm not going to prove anything
3 in court.

4 THE COURT: All right. That you -- that
5 you -- that you would -- when you have a case, you
6 have -- that one who has a case like this has the burden
7 of proof to prove in court. When you sue somebody, you
8 have a burden of proof. And you say you've already
9 satisfied it, I know, but I'm trying to make the
10 difference between that type of thing for you and a
11 Monell claim.

12 A Monell claim is a special type of claim
13 where you want to hold the town liable and the law is
14 that it's just -- it's not enough that it happened or
15 that these defendants committed the conduct.

16 For a Monell claim, it has to be a policy or
17 practice of the town to do that type of' -- to undertake
18 that type of conduct.

19 Do you follow me?

20 MS. AMATUCCI: Policymakers.

21 THE COURT: Yeah. Well, no, not policymakers. *Lie, lie, lie*
22 It must be the policy of the town or the practice of the *XX*
23 town. It's not just that it happened and the people who *XX*
24 did it were policymakers. It must be that it was the
25 town's policy or practice to violate rights in the way

11 (c)

1 that you've alleged in this case.

2 MS. AMATUCCI: No, it -- no, you're wrong. It
3 was the -- it has to be the causal -- it has to be
4 caused by policymakers, not the town. It has -- Monell
5 is --

6 THE COURT: Okay.

7 MS. AMATUCCI: -- a case against policymakers,
8 not against the town.

9 THE COURT: Okay.

10 MS. AMATUCCI: And they have to be the causal
11 effect of my injury. Their actions --

12 THE COURT: The proximate cause.

13 MS. AMATUCCI: -- have caused my injury, not
14 the town. The policymakers. That's Monell.

15 THE COURT: Okay.

16 MS. AMATUCCI: So I won that. I won that.

17 Now --

18 THE COURT: Is that your ruling today, that
19 you won?

20 MS. AMATUCCI: Yeah.

21 THE COURT: Okay.

22 MS. AMATUCCI: I won.

23 THE COURT: Okay.

24 MS. AMATUCCI: Because --

25 THE COURT: You don't have to tell me.

1 MS. AMATUCCI: You're wrong, because the
2 Monell claim is direct cause -- a direct cause by
3 policymakers. That's a Monell claim.

4 Now, do you agree?

5 THE COURT: No.

6 MS. AMATUCCI: You don't? All right. I have
7 a Monell claim right here. We'll look it up.

8 So you think it's the town and not the direct
9 policymakers?

10 THE COURT: Well, the direct policymakers can
11 be part of your proof, that can be part of your case,
12 but what you have to prove for a Monell claim to
13 prevail --

14 MS. AMATUCCI: It has to be directly injuries
15 from policymakers.

16 THE COURT: No.

17 MS. AMATUCCI: Yeah. Could you please look up
18 Monell?

19 THE COURT: It actually doesn't -- actually,
20 that makes your burden of proof harder than it really
21 is. You don't have to make -- you don't have to --

22 MS. AMATUCCI: No, I -- this is the truth.
23 I'm telling the truth.

24 THE COURT: All right.

25 MS. AMATUCCI: Chase -- Chase and the

1 prosecutor are the -- what am I going to do with a judge
2 that doesn't even know the law?

3 THE COURT: I don't know.

4 MS. AMATUCCI: Can you look up -- I want you
5 to look it up and we'll talk about it.

6 THE COURT: No.

7 MS. AMATUCCI: No, you have to. Everything
8 has to be cleared today.

9 THE COURT: Right.

10 MS. AMATUCCI: Today. Three -- three, four
11 days before my trial; you think that's fair --

12 THE COURT: Mrs. --

13 MS. AMATUCCI: -- that this is all going on.

14 THE COURT: Mrs. Amatucci, you're going to
15 have a ruling before your trial. All right? You have
16 my word. But you need to listen to me. I --

17 MS. AMATUCCI: I want you to look up Monell.

18 THE COURT: I've --

19 MS. AMATUCCI: I'm not listening to you
20 because you're wrong and I'm right.

21 THE COURT: All right.

22 MS. AMATUCCI: So the only way to resolve this
23 is to look up a Monell claim.

24 THE COURT: Move on to your next argument.

25 MS. AMATUCCI: No, I --

1 THE COURT: I've looked up --

2 MS. AMATUCCI: I have to clear every issue.

3 THE COURT: I've looked up Monell hundreds of
4 times --

5 MS. AMATUCCI: Look it up now.

6 THE COURT: -- in my career.

7 MS. AMATUCCI: Look it up now.

8 THE COURT: Mrs. --

9 MS. AMATUCCI: We have to clear this claim --

10 THE COURT: Mrs. Amatucci --

11 MS. AMATUCCI: -- right away.

12 THE COURT: Mrs. Amatucci, don't interrupt me
13 again. Make your next point or I'm going to move on to
14 the defense so they can make their arguments. I'm not
15 looking up any law for you sitting here at the bench
16 right now. That's not what I'm doing. I'm listening to
17 your oral argument. You can continue with your oral
18 argument or I'm going to ask the defendants to make
19 theirs.

20 MS. AMATUCCI: No, you know what? This --
21 this hearing is to --

22 THE COURT: It's to decide your --

23 MS. AMATUCCI: Wait a minute.

24 This hearing is all based on the law and you
25 are not stating the law.

15 (c)

1 THE COURT: I am stating the law. And I'm
2 telling you -- first of all, I'm telling you to sit
3 down. Have a seat.

4 Stop shouting at the Court all the time.

5 MS. AMATUCCI: This is -- this is my voice. I
6 don't have --

7 THE COURT: You've told me that so many times.

8 MS. AMATUCCI: I don't have a low voice.

9 THE COURT: And many, many times, Mrs.
10 AmatuCCI, you've addressed the Court in a very
11 reasonable tone. You've done it many times. But you
12 get upset and you start yelling and pointing. There's
13 no reason for it. I can hear you fine.

14 MS. AMATUCCI: Oh, there's no reason to get
15 upset. I'm glad to hear that.

16 THE COURT: Now, look. I understand the law.

17 MS. AMATUCCI: I --

18 THE COURT: I don't need to hear you --

19 MS. AMATUCCI: I'm going to see if I have the
20 Monell claim here.

21 THE COURT: All right.

22 MS. AMATUCCI: No, we're not going to go to
23 the second point until we clear the Monell claim.

24 THE COURT: I'm not giving you a ruling on
25 that from the bench. This is oral argument. It

1 doesn't -- I don't always rule everything from the
2 bench. You make your arguments. You're not entitled to
3 a ruling on every argument you make.

4 Now, make your next argument, or make more of
5 a Monell argument, or I'm going to move on to the
6 defendants.

7 MS. AMATUCCI: Excuse me.

8 THE COURT: That's your choice.

9 MS. AMATUCCI: Excuse me. This is not a
10 ruling. This is clearing the law. The law. This --
11 this case is all about the law, not about your
12 interpretation of the law. I don't care how you
13 interpret it. We have to -- we have to direct the law.
14 That's how we have to run this case.

15 THE COURT: But your statement of the law,
16 Mrs. AmatuCCI, is incorrect. *lie lie*

17 MS. AMATUCCI: And I say it's correct.

18 THE COURT: Well --

19 MS. AMATUCCI: So we have to look it up. We
20 have --

21 THE COURT: Unfortunately, Mrs. AmatuCCI, in a
22 litigation, you get to make an argument and the Court
23 gets to make a ruling. And I'm telling you that --

24 MS. AMATUCCI: And the law has to be clearly
25 determined.

1 THE COURT: Yes, absolutely.

2 MS. AMATUCCI: So I say you are not
3 determining the law.

4 THE COURT: I'm determining --

5 MS. AMATUCCI: So we have to clear the law.

6 THE COURT: Let me tell you what I'm
7 determining; that the way you just described Monell, the
8 Monell doctrine as applied to a town, is incorrect. *LIE - APPLIED TO A POLICY*
9 It's not correct. That's the ruling. *POLICY MAKERS*

10 MS. AMATUCCI: All right. What are you --
11 what -- how -- what is correct, according to your
12 interpretation?

13 THE COURT: I've already repeated it three
14 times. It is not --

15 MS. AMATUCCI: You said --

16 THE COURT: It is not -- it is not that
17 policymakers are the proximate cause of your injury, the
18 proximate cause of the violation. It is that the -- it
19 is that the conduct undertaken by everyone involved in
20 the case -- or anyone involved in the case -- is based
21 on a policy or practice of the town. All right? That's
22 what you have to prove --

23 MS. AMATUCCI: Okay.

24 THE COURT: -- not just that -- not just that
25 a policymaker is the one that committed it. That's a

lie - not

1 different type of claim. It's a different burden of
2 proof.

3 I'm not going to belabor it. I'm just going
4 to ask you --

5 MS. AMATUCCI: Okay. I -- I have it clear now
6 what you're trying to say.

7 Are we talking about my Fourth Amendment
8 malicious prosecution?

9 THE COURT: Yes.

10 MS. AMATUCCI: And you're saying the town has
11 to be the one which -- what do you mean by the town --

12 THE COURT: Yeah.

13 MS. AMATUCCI: -- and --

14 THE COURT: What the law --

15 MS. AMATUCCI: -- isn't Chase the town and the
16 prosecutor the town?

17 THE COURT: Chase and the prosecutor, yes, are
18 agents of the town, and the town can be liable for their
19 conduct under certain circumstances that the law
20 provides for. One of them is your Monell claim. But to
21 prove it -- you don't just have to prove that they were
22 policymakers and that they undertook this conduct. You
23 have to prove that the conduct was pursuant to a policy
24 or practice of the town. *I did prove it*

25 MS. AMATUCCI: That's right. So what they

19 (c)

1 did, what Chase and -- what Chase and the prosecutor did
2 proved -- as policymakers of the town shows that that
3 was a pattern by the town because they are the town.
4 Who's more the town than the chief and the prosecutor?

5 THE COURT: I understand.

6 MS. AMATUCCI: Okay?

7 THE COURT: Yeah.

8 MS. AMATUCCI: So now --

9 THE COURT: But here's the difference. Here's
10 the difference. Here's maybe what you're not
11 appreciating. I -- I mean this when I say this. I'm
12 not going to stand here with you today and argue about
13 the law all day, but here's the difference.

14 The fact that they are the town, as you say,
15 the -- the chief and the prosecutor, the fact that they
16 are the town isn't always enough because suppose this
17 was like an isolated incident -- I'm not suggesting it
18 is, I have no idea -- but suppose it was an isolated
19 incident and what they did went against the town's
20 policy; the town had a policy and they adhered to it in
21 their practice every day to do something different to
22 a -- to operate differently than the way they did with
23 you, your evidence would not be enough to establish a
24 Monell claim of liability against the town because you
25 have to show not just that they did it, not just that

they ARE
the TOWN
IT WAS
A
POLICY
OF THE
TOWN
AS
POLICY

20 (c)

1 MS. AMATUCCI: I want the -- I want -- I want
2 to --

3 THE COURT: Okay.

4 MS. AMATUCCI: -- prove my point.

5 THE COURT: Let me try it this way. Let me
6 try it this way.

7 What is your evidence --

8 MS. AMATUCCI: For what?

9 THE COURT: Well, let me finish the question.

10 MS. AMATUCCI: Well, which -- which evidence
11 are you looking for?

12 THE COURT: Let me finish the question.

13 What is your evidence that what Chase and the
14 prosecutor -- what's the prosecutor's name again?

15 MS. AMATUCCI: Tim Morgan.

16 THE COURT: Thank you.

17 What is your evidence that Chase and Morgan's
18 conduct in this case was --

19 MS. AMATUCCI: Did you say -- Chase and
20 Morgan's what?

21 THE COURT: Conduct.

22 MS. AMATUCCI: Oh.

23 THE COURT: In this case was consistent with
24 or pursuant to the policies and practices of the town of

25 Wolfeboro. *NEVER SAID THAT. IT WAS ONE INCIDENT BY THE
POLICY MAKERS THAT MADE IT A POLICY.*

1 MS. AMATUCCI: Because they're policymakers.

2 THE COURT: Okay. Is there anything else?

3 MS. AMATUCCI: Do you want better than that?

4 THE COURT: Well, this -- actually, it's --

5 MS. AMATUCCI: They're the head of the town.

6 THE COURT: I understand your answer, but this
7 shows how, unfortunately, you don't -- you don't really
8 understand the law of Monell.

9 MS. AMATUCCI: Okay. So tell me what the
10 answer would be, the correct answer.

11 THE COURT: Well, the normal -- the correct
12 answer would be if you had evidence of habitual practice
13 like this on the part of the town, discussions among
14 town officials that supported this type of conduct,
15 evidence that they knew about it, what happened to you,
16 over time and were indifferent to it, they had been --
17 people like you had repeatedly brought this up and they
18 ignored it or they approved it. That would be evidence
19 of the custom, policy, practice of the town.

20 It's not just that it happened once and that
21 important town officials like Chase and Morgan did it.
22 You'd have -- for a Monell claim. I don't mean your
23 other claims. I mean your Monell claim against the
24 town. You have to show not just that they did it and
25 that they're important officials. You have to show that

AGAINST
POLICYMAKERS

1 it's a policy, the practice, the custom of the town. *lie, lie*

2 MS. AMATUCCI: Okay. I have to get to -- I *lie*
3 might have it here to show that even one incident, if
4 it's by a policymaker, that declares a pattern -- a
5 practice. Forget the pattern. It could be a pattern or
6 a practice.

7 So if that practice was done by policymakers,
8 it's a practice.

9 THE COURT: I guess if -- I guess in a
10 situation where -- I guess if the, I don't know, I'm
11 trying to --

12 MS. AMATUCCI: Forget pattern. Forget
13 pattern. If they did it, it's a practice.

14 THE COURT: No, that's -- that's exactly the
15 opposite of the law. That's -- that's 100 percent ***
16 incorrect.

17 MS. AMATUCCI: What, that practice is not in
18 there, in the law?

19 THE COURT: No, that even if they did it just
20 one time it's a practice, which is what you just said.
21 That's not the law. *Practice AND Policy is the SAME*

22 MS. AMATUCCI: If it -- if it's done one time,
23 that's enough for my claim.

24 THE COURT: No.

25 MS. AMATUCCI: All right. I have -- I have --

1 I have it here.

2 THE COURT: All right. Well --

3 MS. AMATUCCI: We'll clear that. Before the
4 day is over, we will clear that even done once, you have
5 the claim. They don't have to do it a second time.

6 THE COURT: All right. Is there anything else
7 you want to say?

8 MS. AMATUCCI: Well, I have to -- I have to --
9 I have to defend all their claims that they said. The
10 point is -- the point is it's not what they said. It's
11 not about the town not investigating -- which I have
12 proof beyond a reasonable doubt, and I've got it here,
13 tons of papers showing the town refused to investigate
14 police misconduct.

15 And Chief Chase himself, when I went -- and
16 this is how this all happened, because he refused to
17 investigate Rondeau. And I showed him the evidence that
18 Rondeau was accusing me of -- of a bogus traffic
19 violation when I wasn't even in Wolfeboro that day. And
20 what does he do? He throws the paper in my face and he
21 pushes me out the door.

22 So -- so I proved that just that alone shows
23 how they don't investigate police misconduct. This --
24 this is all about how they don't investigate police
25 misconduct. This is what happened. This is how it

25 (c)

1 started when the chief threw me out the door, which he
2 did to Cynthia Kennedy, too, when he was terminated
3 from Danvers police -- as a Danvers police chief. A
4 repute -- a repeat performance. He did a repeat
5 performance, which is what he is, which shows a pattern
6 and practice.

7 So now we resolved the fact that it's true
8 that the town does not investigate because you can just
9 look at what he did to Cynthia Kennedy to show your
10 pattern and practice.

11 So that one's resolved. So even though it
12 just depends on what they said, even if the case depends
13 on, well, did the town investigate, I just proved they
14 don't.

15 So whether you determine the Monell -- whether
16 you determine that it has to be the direct cause of
17 policymakers or if the town does not investigate, you
18 can lean on that the town doesn't investigate if
19 you're -- if you're -- if you want -- if you want to.

20 So, actually, what they're saying is --
21 they're saying that the town did -- I'm not -- it's not
22 true that the town does not investigate. So I just
23 proved it with Chase. The whole case is because the
24 town doesn't investigate.

25 So now we proved that -- that, that they're

26 (c)

1 wrong.

2 Now they said -- where's page 1?

3 All right. So we did failure to investigate
4 and they're saying that's not true. And we proved it's
5 true.

6 Now, let's prove the next one. They're saying
7 qualified immunity. They're saying -- they're basing
8 their qualified immunity on the -- the speeding -- the
9 speeding, whether Emerson had a right to stop me for
10 speeding. But my Fourth Amendment malicious prosecution
11 is not about speeding. It's about the arrest. That's
12 what was unlawful. Maybe Emerson had a right to stop
13 me, if he didn't -- but he didn't. But he did not have
14 a right to arrest me, put me in jail, detain me and
15 prosecute me.

16 So that's what the -- they have no immunity.
17 It's not about the stop. They're saying that he had a
18 right to stop me because he -- I would -- even the judge
19 said I was going 11 miles over the limit.

20 THE COURT: Yeah.

21 MS. AMATUCCI: It's not about that. A Fourth
22 Amendment malicious prosecution is regarding an unlawful
23 seizure.

24 THE COURT: Yeah.

25 MS. AMATUCCI: And when they arrested me and

1 put me in jail and detained me and prosecuted me, that's
2 an unlawful seizure. So there's no defense for that.

3 THE COURT: Let me ask you two questions --
4 let me ask you a couple questions about that because
5 you're right, I think, about the law that ...

6 First of all -- but the Court did find you
7 guilty of disobeying a police officer, right?

8 MS. AMATUCCI: I'm glad you said that.

9 THE COURT: Don't interrupt. Let me ask the
10 question. All right?

11 There were two charges. You were found not
12 guilty. Even though the Court found that there was
13 testimony you went 41, there was no evidence about the
14 weather or the road conditions and the Court said not
15 guilty of speeding. Right?

16 MS. AMATUCCI: (Nods head.)

17 THE COURT: But the Court said guilty of
18 disobeying.

19 MS. AMATUCCI: That has nothing to do with
20 speeding.

21 THE COURT: Well --

22 MS. AMATUCCI: That's a different claim.

23 THE COURT: That's my question, though. See,
24 because here's my question for you.

25 MS. AMATUCCI: Yeah.

28 / 2

1 THE COURT: If you were also -- I mean, you
2 were also at the same time arrested, detained and
3 prosecuted for -- all those conditions that happened to
4 you for the speeding also happened to you for the -- the
5 disobeying.

6 The -- the -- the bond, the bail bond that
7 was -- the state of New Hampshire bond in criminal case
8 says offenses --

9 MS. AMATUCCI: That's right, too.

10 THE COURT: -- failure to stop, disobeying --

11 MS. AMATUCCI: No.

12 THE COURT: -- an officer.

13 MS. AMATUCCI: Two separate.

14 THE COURT: Yeah.

15 MS. AMATUCCI: Two separate. So --

16 THE COURT: That's my point --

17 MS. AMATUCCI: So they --

18 THE COURT: I know it's two -- hey. I know
19 it's two separate -- I know.

20 MS. AMATUCCI: We're only talking about the
21 speeding.

22 THE COURT: Well, that's my question, though.

23 If you were detained -- if you were arrested,
24 detained and prosecuted anyway, how could you have been
25 damaged by the -- the arrest, detention and prosecution

1 for speeding?

2 MS. AMATUCCI: Because there were two claims.

3 So I was -- I was detained for the speeding and I was
4 detained for the -- for the disobeying --

5 THE COURT: I understand.

6 MS. AMATUCCI: -- for both. I was detained
7 for the speeding. That's all you have to know.

8 Now, let's say a little bit about the
9 disobeying. Okay?

10 THE COURT: One more question.

11 MS. AMATUCCI: By the way, there's a lawsuit
12 in this court --

13 THE COURT: One -- one more question, though,
14 about this speeding part.

15 MS. AMATUCCI: Okay.

16 THE COURT: Because I -- I completely agree
17 with you, two separate charges. *

18 MS. AMATUCCI: Right.

19 THE COURT: We agree.

20 The Court found -- the Court found that the
21 reason -- the reason you were acquitted, found not
22 guilty, was the -- no -- no evidence about the weather
23 or the road conditions.

24 MS. AMATUCCI: Yeah.

25 THE COURT: So even if you were going 41 --

1 even if you were going 41, that's not necessarily
2 speeding.

3 MS. AMATUCCI: Yeah.

4 THE COURT: Not guilty.

5 I don't have evidence in the record that --
6 they have put in an affidavit from the officer that says
7 she was going 41 and the Court made a finding that he at
8 least testified you were going 41.

9 There's nothing in the record where you say
10 how fast you were going or anything like that. Maybe
11 you just think it doesn't make any difference because --

12 MS. AMATUCCI: It is -- it is in the record.

13 THE COURT: What is -- tell me.

14 MS. AMATUCCI: Are you ready?

15 THE COURT: Yeah. Absolutely.

16 MS. AMATUCCI: The order after trial on the
17 merits --

18 THE COURT: Tell -- tell me what you're
19 reading.

20 MS. AMATUCCI: This is the trial -- the trial.

21 THE COURT: Is there a document number on it?
22 I mean, I'm asking just so I can note it for the record.

23 MS. AMATUCCI: 00836.

24 THE COURT: 00836. No, no, no.

25 00 -- Charli, can you look at what she's

31 (c)

1 holding so I can get --

2 THE LAW CLERK: I know. It's Judge Patten's
3 order.

4 THE COURT: Oh, you mean the judge's order,
5 the judge's verdict, Mrs. AmatuCCI?

6 MS. AMATUCCI: Oh, are you talking to me? I'm
7 sorry.

8 THE COURT: Yeah.

9 MS. AMATUCCI: What?

10 THE COURT: Are you reading from the judge's
11 order?

12 MS. AMATUCCI: Yeah, the judge's order after
13 trial on the merits.

14 THE COURT: Thank you. Go ahead.

15 MS. AMATUCCI: Okay. Now, the judge did say I
16 did disobey the police when I didn't stop. Is that what
17 you're talking about? Or you're talking about the
18 speeding?

19 THE COURT: Yeah.

20 MS. AMATUCCI: All right.

21 THE COURT: I'm saying -- you just said to
22 me --

23 MS. AMATUCCI: Okay. That's right.

24 THE COURT: Right. So --

25 MS. AMATUCCI: He -- he says that it was a

33

3:

1 setup; that my speeding -- that I never was speeding.
2 The judge goes on to explain that according to his
3 proof, it was a setup; that -- that the police actually
4 were -- were detaining me as a setup. And here's how
5 the judge mentions that that -- that -- when they -- the
6 pursuit by the police was a setup; that Emerson was told
7 to -- to chase me. He was told to pursue me before I
8 got to the sheriff's office. And that's what the -- how
9 the judge defends me.

10 And he's saying --

11 THE COURT: I'm pulling it up right now,
12 Mrs. Amatucci. Just a second. I want to read --

13 MS. AMATUCCI: Oh, yeah.

14 THE COURT: -- it with you.

15 MS. AMATUCCI: That's better.

16 THE COURT: It's document 138.

17 MS. AMATUCCI: What? Document
18 464-2014-CR-00836.

19 THE COURT: Hold on. Okay. I have it. Yeah.

20 MS. AMATUCCI: All right. So get to page 2.

21 THE COURT: Page 2. Yup. What paragraph?

22 MS. AMATUCCI: Okay. The first paragraph.

23 THE COURT: Where it says, the evidence
24 presented?

25 MS. AMATUCCI: Yeah. Okay.

1 THE COURT: I'll read it out loud.

2 The evidence presented through the officer's
3 testimony shows that he was traveling toward the
4 downtown area of Wolfeboro on Center Street and was
5 advised by district that the person of interest involved
6 in the incident he was responding to had left that
7 location. It is shown by dispatch log State's Exhibit 7
8 that the officer had been advised of a description of
9 the defendant's car. Although he testified that he was
10 not on the lookout for her, it is reasonable to infer
11 that he was, indeed, on the lookout for the defendant.
12 The dispatch log, Exhibit 7, appears to support the
13 inference.

14 MS. AMATUCCI: Okay?

15 THE COURT: Yeah.

16 MS. AMATUCCI: He was on the lookout for me.

17 It was --

18 THE COURT: I agree.

19 MS. AMATUCCI: Okay.

20 THE COURT: That's the evidence, yeah.

21 MS. AMATUCCI: But that's not all.

22 THE COURT: Okay.

23 MS. AMATUCCI: Now, on the one, two -- on the
24 third paragraph --

25 THE COURT: Yeah.

1 MS. AMATUCCI: -- on the end of the third
2 paragraph, what does it say?

3 It also appeared -- read that.

4 THE COURT: It also appeared -- I don't --

5 MS. AMATUCCI: The third paragraph.

6 THE COURT: Yeah, I'm looking at it.

7 MS. AMATUCCI: Two under that one.

8 THE COURT: I don't have "it also appeared."
9 I have -- the third paragraph says, "The officer
10 testified."

11 MS. AMATUCCI: Wait a minute. It starts with
12 "it is at this point."

13 The paragraph starts --

14 THE COURT: That's two paragraphs down, okay.

15 MS. AMATUCCI: Yeah.

16 THE COURT: Quote --

17 MS. AMATUCCI: The end of it.

18 THE COURT: The end?

19 MS. AMATUCCI: At the very end.

20 THE COURT: Okay.

21 In his testimony, it also appeared that the
22 officer was saying that he was also communicating with
23 dispatch via his cell phone about who he should be
24 pursuing.

25 MS. AMATUCCI: About who he should be

35 (c)

1 pursuing. It was a setup. It was a setup.

2 THE COURT: I -- I agree that the officer --

3 MS. AMATUCCI: I was never speeding.

4 THE COURT: Can you let me finish my
5 sentences, please? I agree with you -- I'm saying I
6 agree with you.

7 Is it -- am I -- Mrs. Amatucci, let me ask you
8 a question. Am I allowed to speak today?

9 MS. AMATUCCI: Are you obviously what?

10 THE COURT: Am I allowed to speak in here
11 today, in this courtroom? Is it okay with you? Because
12 I'm expressing that I agree with you; the evidence
13 appears very much that he was looking for you. Yes.
14 Okay?

15 MS. AMATUCCI: Which means I'm innocent.

16 THE COURT: Okay, but I asked you a question a
17 minute ago and you told me you were going to show me the
18 answer --

19 MS. AMATUCCI: Okay.

20 THE COURT: -- in the record. I'm going to
21 try it one more time.

22 This order says that the officer testified
23 that you were clocked at 42 miles per hour. I asked
24 you, have you put in the record evidence of how fast you
25 were going? And you said yes. I can't find it in the

1 record where you say how fast you were going.

2 MS. AMATUCCI: You know what I said? I was
3 not speeding.

4 THE COURT: Speeding. Because --

5 MS. AMATUCCI: And I have proof by two people.

6 THE COURT: Well, do you -- right. Because
7 the judge said you were not guilty, right?

8 MS. AMATUCCI: The judge said I was not
9 speeding.

10 THE COURT: Well, see, the --

11 MS. AMATUCCI: The judge said I was not
12 speeding. Wait a minute. Let me get that.

13 THE COURT: I have it. It's right in front of
14 me. I can see it.

15 MS. AMATUCCI: No. No.

16 THE COURT: You have to let me ask my
17 questions, Mrs. Amatucci, or I'm not going to spend any
18 more time listening to you.

19 MS. AMATUCCI: That's answering your question.

20 THE COURT: Well, it's a -- you were found not
21 guilty of speeding. Okay? That's -- that's different
22 than finding how fast you were going. You were not
23 guilty of the crime of speeding because even if you were
24 going 42 --

25 MS. AMATUCCI: But I wasn't.

1 THE COURT: That's my question. When you say
2 I wasn't, right --

3 MS. AMATUCCI: And the judge says I wasn't.

4 THE COURT: Where does he say that?

5 MS. AMATUCCI: Yeah, that's what I'm trying to
6 tell you. Wait a minute.

7 Okay.

8 THE COURT: Yeah.

9 MS. AMATUCCI: On page 2 at the very end --

10 THE COURT: Yeah.

11 MS. AMATUCCI: -- read where he says the
12 defendant -- read on the right, "the defendant," go
13 ahead.

14 THE COURT: The defendant continued to travel
15 northbound on Center Street, Route 28, albeit apparently
16 not speeding along the way --

17 MS. AMATUCCI: Ha-ha-ha.

18 THE COURT: -- for approximately four miles
19 before she pulled over.

20 Right.

21 MS. AMATUCCI: I was not -- when he was saying
22 albeit not speeding, he knows I was not speeding.

23 THE COURT: That's -- that's -- he's saying
24 you weren't speeding (after the police tried -- started
25 to pursue you and even the officer said you weren't

1 speeding at that point.

2 I'm asking you about when you were first
3 observed by the officer, when he determined you were
4 going 42 --

5 MS. AMATUCCI: Yes.

6 THE COURT: -- I'm just asking you what
7 evidence in the record is there, what have you put in
8 the record to establish your rate of speed at that
9 point?

10 MS. AMATUCCI: I was not speeding. That's my
11 rate of speed. I was -- I never speed. I've never got
12 a speeding record. I'm 80 years old. I've never got a
13 speeding record in my entire life.

14 THE COURT: But what's the -- but what's in
15 the -- I have to decide summary judgment on the record
16 evidence, on what they put in and what you put in.

17 MS. AMATUCCI: All right. You want evidence
18 that I was not speeding?

19 THE COURT: Listen.

20 MS. AMATUCCI: I got tons of evidence.

21 THE COURT: Listen. But I want you to -- yes,
22 but I want you to understand what I mean by that.

23 I know you were found not guilty of speeding,
24 the crime of speeding -- or the violation of speeding.
25 It's not a crime. You were found not guilty. But

Speeding
is not
a crime

Lie, lie

37 (C)

1 I'm -- I'm not asking about the word speeding. I'm
2 asking about what evidence is there in the record,
3 because I cannot find any except for what the officer
4 said in his affidavit, what evidence is there in the
5 record, the summary judgment record of sworn affidavits
6 and records, that establishes your rate of speed?

7 MS. AMATUCCI: In the summary judgment?

8 THE COURT: Record.

9 MS. AMATUCCI: In my summary judgment?

10 THE COURT: In the summary judgment record,
11 meaning all the documents and affidavits they put in and
12 all the documents and affidavits you put in. That's
13 what's called the summary judgment record. And I don't
14 see evidence where you have established your rate of
15 speed, not the guilt of the offense of speeding, but
16 your rate of travel when the officer observed you and
17 swore under oath you were going 42.

18 MS. AMATUCCI: I did put in the record --

19 THE COURT: Tell me.

20 MS. AMATUCCI: -- that there were two cars in
21 front of me.

22 THE COURT: Yeah.

23 MS. AMATUCCI: So how could I be speeding?
24 And even the judge mentioned it, that how could I be
25 speeding if there were two cars in front of me?

4/6

1 THE COURT: Show me that.

2 MS. AMATUCCI: Let me think where he -- if
3 it's not here, I have it -- I have where he said it.
4 Wait. Where he said that --

5 THE COURT: I see it.

6 MS. AMATUCCI: Let me put --

7 THE COURT: I see it.

8 MS. AMATUCCI: You see it?

9 THE COURT: It's in the paragraph between the
10 two that we just read.

11 MS. AMATUCCI: All right.

12 THE COURT: So it says --

13 MS. AMATUCCI: There were two cars in front of
14 me.

15 THE COURT: Here's the paragraph. I'm going
16 to read it to you. This is the one I think you're
17 talking about, the same order. We're at document number
18 138-5, which is -- which is Judge -- Judge Patten's
19 order in the case where he found you not guilty of
20 speeding. And it -- and we're on page 3, page 3 of 5.

21 And it says: The officer testified that when
22 he was near what is commonly referred to as the Mast
23 Landing area, he observed a vehicle come around the
24 curve which appeared to be speeding. He testified that
25 he activated his radar at a point that two vehicles were

41 (C)

1 in the radar's range of reception.

2 MS. AMATUCCI: Here we go.

3 THE COURT: Let me finish.

4 The radar picked up the signal from the car
5 moving the fastest and it was ultimately determined that
6 vehicle was driven by the defendant and the radar
7 readout showed the defendant was traveling 42 miles per
8 hour in a posted 30 mile per hour zone. This area,
9 showing the officer's point of view, is depicted on the
10 two photographs entered as State's Exhibit 6.

11 So he mentioned two vehicles, but I don't see
12 where he said how could she be speeding. I don't -- I
13 don't see that in the record. I don't see him
14 questioning --

15 MS. AMATUCCI: Why don't you use common sense.

16 THE COURT: All right.

17 MS. AMATUCCI: If I'm behind two cars, how
18 could I be speeding?

19 THE COURT: Well, first of all, if you read
20 this carefully, he doesn't say you were behind two cars.
21 He said the officer saw --

22 MS. AMATUCCI: Well, I was. I'm telling you,
23 there were two cars in front of me and I have proof.

24 THE COURT: I know, but what you tell me today
25 isn't the summary judgment record. A summary judgment

1 record is the officer's affidavit, this court order and
2 the records in the record, not just what you decide to
3 say to me today.

4 MS. AMATUCCI: The judge said -- the judge
5 said there were two cars in front. He said --

6 THE COURT: Who --

7 MS. AMATUCCI: He mentioned --

8 THE COURT: Mrs. Amatucci, I just read to you
9 what he said. He said that there were two cars coming
10 around the turn, one of which was yours. He didn't say
11 two in front of you.

12 MS. AMATUCCI: No, there were two in front of
13 me. And I'll prove it.

14 THE COURT: I know that's what you say, but --

15 MS. AMATUCCI: Well, I'll prove it.

16 THE COURT: I'm going to ask -- listen, I'm
17 going to ask you one more time.

18 Show me in the record where you have
19 established or even alleged your rate of speed at the
20 time the officer clocked you at 42. Because he has
21 sworn to that. It is in the record. I need to know
22 where it says -- not that you claim that I was not
23 guilty of speeding or I was not committing the offense
24 of speeding. I need to know where you have shown that
25 you were not traveling at a rate of speed in excess of

43

1 the posted speed limit.

2 MS. AMATUCCI: But even if I was, it's not --
3 it's not the crime. It's not a crime. Even if I was,
4 it's not a crime. So what are we talking about here?

5 THE COURT: Here's what we're talking about
6 here. The statute says that if you're just -- even if
7 it's not a crime, if you're going faster than the speed
8 limit, it's a prima facie case, probable cause. You
9 have to be able to prove there was no probable cause,
10 okay, in this case.

11 MS. AMATUCCI: I don't care about the
12 speeding. I care about the -- the unlawful arrest.
13 Forget speeding.

14 THE COURT: The unlawful arrest is for
15 speeding. And --

16 MS. AMATUCCI: You don't get arrested for
17 speeding in New Hampshire.

18 THE COURT: Well, that's -- that's usually
19 true, but --

20 MS. AMATUCCI: I --

21 THE COURT: -- it doesn't -- but it doesn't
22 mean you can't in New Hampshire.

23 MS. AMATUCCI: Can you make this easy for me,
24 please? I'm not guilty of nothing. And my -- and their
25 summary judgment -- let's continue with their summary

1 judgment.

2 THE COURT: All right.

3 MS. AMATUCCI: So that we can cover all these
4 issues.

5 THE COURT: Okay.

6 MS. AMATUCCI: All right.

7 So now -- now they're saying Emerson had
8 probable cause, but they're talking about the speeding.
9 He did not have probable cause to arrest me. So
10 their --

11 THE COURT: Mrs. Amatucci --

12 MS. AMATUCCI: -- probable cause issue --

13 THE COURT: Mrs. Amatucci, you disobeyed a
14 police officer over and over. You probably --

15 MS. AMATUCCI: We are not talking about the
16 offense -- and we're going to talk about that after.

17 We are not talking with the offense of
18 disobeying a police officer. I was stopped for
19 speeding.

20 THE COURT: You -- you were also stopped and
21 you were detained --

22 MS. AMATUCCI: We're not talking about what
23 I --

24 THE COURT: I know you think we're not -- we
25 can't take -- we can't take --

1 MS. AMATUCCI: This case is not about
2 disobeying the police officer. This case is about --

3 THE COURT: Yes.

4 MS. AMATUCCI: -- my unlawful arrest for
5 speeding.

6 THE COURT: I understand that.

7 MS. AMATUCCI: All right.

8 THE COURT: I understand that.

9 MS. AMATUCCI: So?

10 THE COURT: But -- here's the so.

11 But you can't -- you can't just divorce from
12 the reality of the facts of the case. You were still
13 also stopped, arrested, detained and prosecuted --

14 MS. AMATUCCI: Yeah.

15 THE COURT: -- for disobeying an officer and
16 you were found guilty.

17 MS. AMATUCCI: But that's a separate -- well,
18 right. But that --

19 THE COURT: I know it's a separate --

20 MS. AMATUCCI: Let me answer that.

21 THE COURT: I know it's a separate --

22 MS. AMATUCCI: Let me answer that.

23 THE COURT: Okay.

24 MS. AMATUCCI: According to the courts --
25 okay, and I got that information -- according to the

46 (12)

1 courts, if the arrest was unlawful to begin with,
2 because they claimed they arrested me for speeding and
3 that's why they were chasing me, right? All right.

4 So you're chasing me because I'm speeding and
5 I disobeyed you by not stopping because I had no right
6 to not stop. I had no right to not stop.

7 THE COURT: Yeah.

8 MS. AMATUCCI: However, if the speeding was
9 unlawful, which is why they were chasing me -- that's
10 why they were chasing me -- if the speeding was
11 unlawful, then I could never have been put in jail for
12 the disobeying a police officer. Because if I wasn't
13 speeding, why would it be a defense to disobey them to
14 stop when I didn't have to stop because I was never
15 speeding?

16 THE COURT: Well, we're --

17 MS. AMATUCCI: You can't -- you can't deny it.
18 I've got -- I've got the --

19 THE COURT: So you --

20 MS. AMATUCCI: The Court said it.

21 THE COURT: I just tried to go through that
22 with you, though, and you wouldn't -- not only would you
23 not listen, you couldn't point me to any evidence that
24 you weren't going 42 miles an hour.

25 MS. AMATUCCI: I wasn't speeding. It

1 doesn't -- it doesn't matter if I was going one mile an
2 hour or 30 miles an hour. I wasn't speeding. And I got
3 proof I was never speeding.

4 THE COURT: I think it does --

5 MS. AMATUCCI: And you just --

6 THE COURT: I think it does matter.

7 MS. AMATUCCI: -- saw that it was a setup. It
8 was a setup to get me. It was a setup to get me. Not
9 because I was speeding. It was a setup.

10 THE COURT: All right. What's your next
11 point?

12 MS. AMATUCCI: I'm not going to win here. I'm
13 not going to win here. I want to go over -- so the
14 point is there was no probable cause because the --
15 because they had no right to arrest me for speeding. So
16 Emerson had no probable cause to arrest me, period. All
17 right?

18 Forget the probable -- because that's --
19 that's what the Fourth Amendment malicious prosecution
20 is about. It's about the unlawful seizure. And there
21 is only one claim in this case, the Fourth Amendment
22 malicious prosecution. And that is -- that's about an
23 unlawful seizure, not about speeding.

24 Now, now they say Chase did not participate in
25 your arrest. He didn't? Okay. Let's get -- let's get

48

1 the affidavit of Emerson -- okay? -- Emerson --
2 Emerson's affidavit about my -- why he arrested me.

3 THE COURT: Yeah.

4 MS. AMATUCCI: And what does he say? Amatucci
5 failed to -- so they're trying to say that Chase had
6 nothing to do with this.

7 THE COURT: Uh-huh.

8 MS. AMATUCCI: Amatucci failed to yield to
9 both -- both, both -- fully marked Wolfeboro police
10 cruisers. Both. That was Chase. Who had -- both who
11 had their emergency lights and sirens activated at the
12 time. Both. Chase was there, chasing me. He was
13 involved. And let's get -- let's get the deputy
14 sheriff's statement that Chase was -- Chase was part of
15 this arrest.

16 He's -- the deputy sheriff said: Amatucci was
17 then taken into custody by Officer Emerson, the
18 Wolfeboro Police and I.

19 So now they have no defense that Chase was not
20 involved. So I got that over with.

21 So now --

22 THE COURT: Yeah.

23 MS. AMATUCCI: Now they say Chase -- Chase
24 assumed the arrest was proper when she failed to stop.

25 The arrest? That was a seizure. The arrest

1 was not proper because the seizure was unlawful. The
2 seizure was unlawful. And I -- they had no right to
3 arrest me.

4 Okay. So that's out of the question. That's
5 out of the question.

6 Now they talk about official immunity and all
7 kinds of immunity. There is no immunity, neither by the
8 state or the federal government, when an officer acts
9 against the federal civil rights laws.

10 So if Emerson is guilty of an unlawful seizure
11 when he arrested me, put me in jail, detained me and
12 prosecuted me, then there's no -- there's no immunity at
13 all.

14 Now we get to the next thing, a malicious
15 prosecution. What they are saying is she was
16 maliciously prosecuted because the officer had probable
17 cause.

18 There's no probable cause for an unlawful
19 seizure under the federal constitution. An unlawful
20 seizure, an unlawful incarceration, an unlawful
21 detention. It's all about detention. I was detained
22 for more than a year.

23 Under the Fourth Amendment, the federal
24 constitution, there was no probable cause to arrest me,
25 to detain me, to put me in jail.

1 Now we'll get the next one.

2 So there was no -- no -- there was no right
3 for a prosecution, to prosecute me. No right
4 whatsoever.

5 And that's all, unless they have others --

6 THE COURT: Okay.

7 MS. AMATUCCI: -- they have other reasons --

8 THE COURT: I'll listen to them -- I'll listen
9 to them and then if you want to respond to what they
10 said, I'll give you another chance.

11 MS. AMATUCCI: What?

12 THE COURT: I will listen to them. They're
13 allowed to speak, too. And after they're done speaking,
14 if you want to respond, I'll give you an opportunity.
15 Okay? Is that okay with you?

16 MS. AMATUCCI: Yeah.

17 MR. MULLEN: Thank you, your Honor.

18 Your Honor, feel free to interrupt if you have
19 any questions as I'm going through the argument today.

20 It's my understanding that we're only here on
21 the federal claim, too. Our summary judgment addressed
22 the state law claims that were at issue at the time and
23 I believe there's only one claim left.

24 THE COURT: Ms. Amatucci has tried to withdraw
25 her state law claims many times, but I'm leaving them in

NO STATE
LAW CLAIMS
FILED IN
MY SUMMARY
JUDG.

51 (c)

7/10/18
He CANNOT LEAVE IN CLAIMS THAT ARE NOT IN MY SUMMARY JUDGMENT

52

1 the case because -- for her protection mostly. *FRAUD*

2 MS. AMATUCCI: Wait. Excuse me, please?

3 Don't protect me. I'll protect myself.

4 THE COURT: Well, do you --

5 MS. AMATUCCI: The state law claims are not in
 6 this case, period.

7 THE COURT: Fine. Done. They're out of the
 8 case. *YET THIS BIAS JUDGE DISMISSED MY SUMMARY JUDG.*

9 MR. MULLEN: Your Honor, the first argument we
 10 had is that there was probable cause for the stop here. *CLAIM OF UNOCC. MALICIOUS PROSECUT.*

11 As the Court has I think understood in the *PROSECUT.*
 12 order that was issued by Judge Patten, I believe in June
 13 of 2015, he states on several occasions that she was *ALSO IMMUNITY*
 14 going 42 miles per hour in a posted 30 mile per hour
 15 zone. And that's a finding of the Court. And that in
 16 and of itself gives Officer Emerson a reason to stop her
 17 and make inquiry and decide whether to cite her for
 18 speeding or not.

19 THE COURT: I understand your argument about
 20 that, but what do you say is a finding of the Court? Is
 21 the finding that she was going 42 or that the officer
 22 said she was going 42?

23 MR. MULLEN: I -- the find -- we're saying
 24 that the officer -- the Court said on -- there's at
 25 least two occasions in the order and I can read from the

52 (c)

1 order that the Court --

2 THE COURT: I'm not sure I agree with you, to
3 be honest. I'm not sure I agree with you about that.
4 But go ahead.

5 MS. AMATUCCI: When he says these, can I abut
6 them as he goes along? Because then it'll all get
7 confused.

8 It's not about the stop.

9 THE COURT: Stop. He's allowed to --

10 MS. AMATUCCI: It's about the arrest.

11 THE COURT: He's allowed to make an argument.

12 MS. AMATUCCI: No, but let's end it now.

13 Let's -- let's deal with each issue as he talks about
14 it. It's not about the stop. He did have probable
15 cause --

16 THE COURT: Stop shouting at the lawyer.
17 Behave yourself, please.

18 MS. AMATUCCI: You wouldn't want to be in my
19 position. Believe me, you wouldn't sit here talking
20 sweet.

21 The point is it was not about the stop. It's
22 about the arrest. A Fourth Amendment malicious
23 prosecution is a seizure, which was the arrest, and the
24 incarceration. All right? So that's -- that's moot.

25 THE COURT: Please proceed --

53 (c)

1 MS. AMATUCCI: That's moot.

2 THE COURT: I want you to answer my question
3 because I read that order not to be a finding that she
4 was going 42. I read it to be a finding that the
5 officer's evidence was that she was going 42. But you
6 tell me. I'm listening.

7 MR. MULLEN: On page 3 of the order, your
8 Honor, it starts out: RSA 265:60-I prohibits operating
9 a vehicle on a way at a speed which is greater than
10 reasonable and prudent under the conditions and having
11 regard to actual and potential hazards that then
12 existed.

13 Subsection II of RSA 265:60 provides that the
14 speed of a vehicle in excess of the limits specified, in
15 this case, 42 miles per hour in the posted 30 mile per
16 hour zone, shall be prima facie evidence that the speed
17 is not reasonable or prudent and that it is unlawful.

18 That's one -- that's one area where he says in
19 this case.

20 THE COURT: Yeah, that's arguable. What --
21 show me -- what page is that on again?

22 MR. MULLEN: Page 3 of the Court's order, your
23 Honor, of Judge Patten's order.

24 THE COURT: And that --

25 MR. MULLEN: It's the paragraph that begins

FOR THE STOP
AT THE PAGES

1 with RSA 265:60.

2 THE COURT: Yeah. My -- my pages don't match
3 your pages. Hold on.

4 There it is, yeah. That's my page 4, not page
5 3. It's page 3 of the order, page 4 of the document
6 that you filed.

7 MR. MULLEN: Right.

8 THE COURT: Okay. Let me look at it again.
9 Yeah.

10 MR. MULLEN: It says --

11 THE COURT: The applicable statute prohibits
12 operating a vehicle on a way at a speed which is greater
13 than reasonable and prudent under the conditions and
14 having regard to actual and potential hazards that
15 existed.

16 Subsection two of the applicable statute
17 provides that the speed of a vehicle in excess of the
18 limits specified, in this case, 42 miles per hour in a
19 posted 30 mile per hour zone, shall be prima facie
20 evidence that the speed is not reasonable or prudent,
21 that it is unlawful, unquote.

22 And that's -- that's -- prima facie evidence
23 equals probable cause for the purposes of this.

24 MR. MULLEN: Correct. Correct.

25 THE COURT: So your view is that the

55 (c)

1 reference, "in this case, 42 miles per hour," that's a
2 finding of her rate of speed?

3 MR. MULLEN: Yes, your Honor. And --

4 MS. AMATUCCI: That's not a Fourth Amendment
5 malicious prosecution.

6 MR. MULLEN: Further on in that paragraph,
7 your Honor, a sentence that begins: Here we have the
8 seem -- I think it's a typo, but -- it says seemly, but
9 seemingly conflicted --

10 THE COURT: Seemingly conflicted evidence.

11 MR. MULLEN: In that no specific conditions
12 presented that there were actual or potential hazards at
13 the place and time that the defendant was traveling 12
14 miles per hour over the posted speed limit.

15 THE COURT: Yeah.

16 MR. MULLEN: He states it again.

17 And then, although not stated here, but I
18 think reasonably inferred, he would not have had to have
19 gone to the rationale that the speed that she was
20 traveling was reasonable and prudent under the
21 conditions if he didn't determine that she was in excess
22 of the posted speed limit.

23 So he had to make a determination that she was
24 in excess of the posted speed limit in order to reach
25 the next prong which was that even if she was going 42

57

1 in a 30, that that speed was not unreasonable for the
2 conditions that were presented as evidence.

3 THE COURT: Well, let me ask you this, though.
4 Let's assume I accept your argument that the Court
5 actually found that she was traveling 42. What about,
6 you know -- so for collateral estoppel purposes, though,
7 does a finding made pursuant to an acquittal, right --
8 this was pursuant to an acquittal, so it wasn't a
9 necessary finding for the ruling.

10 Is that binding on Mrs. Amatucci? I'm not
11 sure it is under the doctrine of -- it's not res
12 judicata; it's a collateral estoppel issue. This is a
13 civil case. And the Court did find it -- if I accept
14 your proposition -- but a finding that was made pursuant
15 to an acquittal, I'm not sure if it has collateral
16 estoppel effect.

17 MR. MULLEN: Well, your Honor, I would argue
18 it does.

19 THE COURT: Yeah.

20 MR. MULLEN: First of all --

21 THE COURT: If I asked you for authority for
22 that -- I don't think have you it handy, right?

23 MR. MULLEN: Not with me, your Honor.

24 THE COURT: All right.

25 MR. MULLEN: I don't have it handy.

58

1 But in this particular case, you know, the
2 fact that the judge clearly made a determination in this
3 case and said she was going 12 miles per hour, he had to
4 make the determination in order to reach the --

5 MS. AMATUCCI: No, he went by --

6 MR. MULLEN: -- elements of --

7 MS. AMATUCCI: He went by --

8 MR. MULLEN: -- 265:60.

9 MS. AMATUCCI: -- the testimony of the cop.
10 And he says it right here; he went by their testimony,
11 not by facts.

12 So of course the cop is going to say what I --
13 that I was doing that to defend himself. He went by the
14 testimony of the police officer, not by the facts in
15 front of him.

16 THE COURT: Okay. Ms. AmatuCCI, do you see
17 how the lawyer's standing up at the podium and he's
18 talking to me? That means, under the rules of court or
19 the customs of court, you should not interrupt him.

20 MS. AMATUCCI: But you said that I could -- I
21 can -- I can --

22 THE COURT: First of all, I never said you
23 could do this point by point. You asked if you could or
24 you shouted and demanded it --

25 MS. AMATUCCI: But this is the time when

5861

1 you --

2 THE COURT: -- as you were doing -- I know.
3 But at least let him finish his points instead of
4 just -- he never interrupted you one time when you were
5 speaking.

6 MS. AMATUCCI: Because he's got nothing to
7 say.

8 THE COURT: No, he's got plenty --

9 MS. AMATUCCI: He's got defense on what I'm
10 saying.

11 THE COURT: Well, I -- listen. He would know
12 better to interrupt you even if he had something to say
13 and he's saying it right now. You're being very
14 impolite. All right? And you're being disruptive. I'm
15 going to ask you to restrain yourself. I gave you every
16 opportunity to say everything you wanted and you
17 repeated yourself four or five times on every point.

18 MS. AMATUCCI: Yeah, but you just said that I
19 can -- I can --

20 THE COURT: I did not say that, number one;
21 you demanded it, and I did not say it was fine. The
22 fact that you demand things --

23 MS. AMATUCCI: How can I defend myself?

24 THE COURT: The fact -- you do get to defend
25 yourself, but we take turns speaking in court. It's

59 (c)

1 like a dinner table. Only one person at a time can
2 speak. It's especially important here because we have a
3 court reporter who's trying to type everything we say.
4 So when you interrupt repeatedly, it makes it difficult
5 for her. Don't do it again, please.

6 Go ahead, Mr. Mullen.

7 MR. MULLEN: Thank you, your Honor.

8 So I think the Court did make a finding. And
9 over and above that, so with that finding of 42 in a 30,
10 Officer Emerson had the right to stop her to inquire
11 about whether -- what her speed was. *NOT TO ADVICE
FOR SPEED*

12 Then she continued, as the Court knows, for
13 four miles and then he had the right to stop her for
14 disobeying an officer, because he had his strobe lights
15 and siren going.

16 The second argument we make is that -- with
17 regard to probable cause is that we submitted the
18 affidavit of Officer Emerson in which he stated that he
19 was a certified radar operator, that his radar machine
20 had been certified and tested; at that particular time
21 it was within the certification period, and the radar
22 showed that he -- that she was going 42 miles per hour
23 in a 30 mile per hour zone. And that has not been
24 contradicted.

25 Given that --

60 (C)

1 THE COURT: Let me ask you about that.

2 I'm asking you, Mr. Mullen, as an officer of
3 the court --

4 MR. MULLEN: Yes.

5 THE COURT: It's important to me that
6 Mrs. Amatucci, who is pro se, gets every benefit here --

7 MR. MULLEN: I understand, your Honor.

8 THE COURT: -- when it comes to inferences of
9 proof. Because I've combed the record carefully; the
10 Court has really exhaustively examined this record I'm
11 trying to find evidence where Mrs. Amatucci ever said
12 how fast she was going or even said she wasn't going 42,
13 ever. She always has said I wasn't speeding --

14 MR. MULLEN: Correct.

15 THE COURT: -- but that's the same to the
16 Court as saying I was found not guilty of speeding or I
17 wasn't committing the offense of speeding.

18 But I can't find any evidence that contradicts
19 the officer's observation that she was going 42 or the
20 Court's finding of it, as you point out.

21 So -- so have you also examined the record on
22 this question? Have you looked carefully for -- and I'm
23 asking you as an officer of the court, have you found
24 any evidence where Mrs. Amatucci has put in, you know,
25 competent, admissible, summary judgment record evidence

61 (c)

7/24/18

62

1 of her rate of speed?

*FRAUD, FRAUD RATE OF SPEED DOESN'T
MATTER - THE UNLAWFUL ARREST MATTERS*

2 MR. MULLEN: I have not found any evidence
3 where she -- about her rate of speed. I did see one
4 comment, I believe, in a pleading where I think the
5 Court said I was not speeding.

6 THE COURT: Yeah.

7 MR. MULLEN: I -- but I have not seen any
8 evidence in -- in this case and in a previous case that
9 was dismissed last year, your Honor, where she said what
10 her rate of speed was.

11 THE COURT: Okay. Let me ask -- she has her
12 hand up. I want to give her a chance to add something.

13 Yes, Mrs. Amatucci?

14 MS. AMATUCCI: Hello? This is not about
15 speeding.

16 THE COURT: I knew you were going to say that.

17 MS. AMATUCCI: It's about the Fourth
18 Amendment, which is the arrest. So tell him to stop it.
19 I don't want to hear about speeding.

20 THE COURT: Please proceed.

21 MR. MULLEN: Okay. So, your Honor, I think
22 I've talked about with regard to his affidavit, he's --
23 that's not been contradicted by anybody. So on that
24 basis, we believe that he had probable cause and having
25 probable cause, the malicious prosecution claim fails.

IT IS NOT A MALICIOUS PROSECUTION G 2 (C) CLAIM, IT IS A 4TH AMEND. CLAIM

FOR THE STOP MAYBE - BUT NOT TO ARREST

EMERSON 4

63

1 With regard to Chief Chase I make another
 2 argument. Chief Chase has submitted an affidavit which
 3 we filed with our motion for affidavit in which he
 4 states he followed -- he got there after she was in
 5 custody and in handcuffs and was in the process of being
 6 put in the back seat of the vehicle. He did not arrest
 7 her, he did not give any instructions on how the officer
 8 was to proceed, and he did not participate in her
 9 prosecution. *Lie - see Deputy Sheriff's Testimony - he, Emerson
 and Police Chief Chase who was in the 2nd revised
 arrest*

10 So that fact -- those facts show that Chief
 11 Chase had no involvement with regard to her arrest and
 12 he should be dismissed as an individual defendant
 13 because of that.

14 We also make a qualified immunity argument to
 15 the extent that the Court believes that both Officer
 16 Emerson and Officer Chase participated in the arrest of
 17 Ms. Amatucci. We claim, and there's been no
 18 contradictory evidence to the contrary, that Officer
 19 Emerson, again, through his radar clocking, had her
 20 going 42 miles per hour in a posted 30 mile per hour
 21 zone. Any reasonable officer could have then decided to
 22 stop the individual for speeding and that is not an
 23 unreasonable act. And given that, even if the fact that
 24 the --

25 THE COURT: What about arrest? What about

63 (c)

1 arrest?

2 MR. MULLEN: The arrest in this case is -- and
3 I'm -- I thought it was clear and that it would be --
4 I'll take the -- I'll apologize for that, but the arrest
5 was for disobeying a police officer, your Honor.

6 MS. AMATUCCI: It was both.

7 MR. MULLEN: The stop was for speeding.

8 MS. AMATUCCI: It was --

9 MR. MULLEN: Initially was supposed to be for
10 speeding. If she had stopped -- and I'm speculating
11 here. If she had stopped, I fully believe she would
12 have been given a warning, your Honor, but she continued
13 for four miles and that's -- that's what precipitated
14 the arrest and the seizure and the booking and the
15 prosecution on the misdemeanor charge.

16 That's what she was arrested for. She was *I PROVE I WAS*
17 given a citation on the -- for -- on the complaint, it *ARRESTED & DETAINED*
18 said violation. Show up in court on such and such a *FOR*
19 date. And -- but the arrest was for disobeying a police
20 officer, which is a misdemeanor; at the time,
21 misdemeanor A, which was subsequently reduced to a
22 misdemeanor B.

23 THE COURT: Do we have that citation in the
24 record then?

25 MS. AMATUCCI: Why was I prosecuted for the

1 speeding? Why was I prosecuted for the speeding?

2 MR. MULLEN: I believe that I did put it in
3 the record with the documents from the appeal to the
4 New Hampshire Supreme Court. I think those were
5 attached. But if the Court would like, I can get those
6 documents to you.

7 THE COURT: I -- I actually -- well, the
8 reason I -- I raised that is because that citation to
9 appear, in conjunction with this bond, which is for --
10 which shows that her detention appears to have been for
11 disobeying and failure to stop, that would -- that would
12 strengthen the inference that the arrest, detention,
13 prosecution -- well, at least the -- not the
14 prosecution, but the arrest and detention, actually
15 don't attach to the speeding charge..

16 MR. MULLEN: And I -- I can get a copy of
17 that. I thought I provided it to your Honor, but I have
18 not -- and I will look at one of my attachments.

19 THE COURT: Yeah.

20 MR. MULLEN: If I haven't, I can -- I can get
21 that for you, your Honor. I have a copy of the
22 citations.

23 THE COURT: All right. I'm curious to see
24 that. But go ahead.

25 I don't think I'm going to ask you to

65(c)

1 supplement the record --

2 MR. MULLEN: Okay.

3 THE COURT: -- at this point --

4 MR. MULLEN: All right.

5 THE COURT: -- unless I give Mrs. Amatucci the
6 same opportunity.

7 MR. MULLEN: Okay. Then -- and then the last
8 is, as I think we discussed, the Monell claim. I think
9 Mrs. Amatucci confirmed it; there's absolutely no
10 evidence of custom or policy of the town and here we're
11 asking to prove a negative. We don't have a custom or
12 policy.

13 I took directly from her complaint and from *BT WE HAVE A POLICY OF*
14 her reply to our motion for summary judgment what her *THE POLICE MANAGER WHO CAUSED HER*
15 Monell claim was and I kind of quoted exactly from her *VIOLATION OF AN*
16 complaint and what her reply to the motion -- our motion *CIVIL*
17 for summary judgment and stated from that, assuming
18 that's what she was claiming the policy or custom of the
19 town was. And this basically stated and gave you an
20 affidavit from the town manager and -- that there's no
21 custom or policy in the town of Wolfeboro not to
22 investigate police misconduct. *A POLICY OF THE POLICE MANAGER*
IN THE TOWN OF WOLFEBORO

23 I think the Court might be able to take --
24 I'll call it judicial notice, but have seen documents in
25 which the town does investigate police misconduct and is

1 aware of that. So ...

2 THE COURT: Yeah. Yeah.

3 MR. MULLEN: So, I mean, that would be our
4 argument, your Honor. We believe that --

5 MS. AMATUCCI: Excuse me. What did you say
6 yeah for? Your Honor, what did you say yeah for? What
7 are you -- what are you determining is the truth when
8 you said yeah?

9 THE COURT: Nothing.

10 MS. AMATUCCI: Because this whole case is
11 about the police chief not wanting to investigate, the
12 whole case is that, and how he retaliates when I accused
13 the police of misconduct. This whole case. So there's
14 no yeah, yeah. There's no no.

15 MR. MULLEN: Your Honor, based on that and
16 based on our submissions, we would ask that summary
17 judgment be granted to the town on the Monell claim
18 against both Officer Chase and former chief -- excuse
19 me -- Officer Emerson and Former Chief Chase, on the
20 claims against them.

21 Unless the Court has any questions, we don't
22 have anything further.

23 THE COURT: All right.

24 MS. AMATUCCI: He's still basing everything on
25 the speeding. This is a Fourth Amendment malicious

11/1/21

1 prosecution. The fact was -- all right, I was going a
2 hundred miles an hour. Okay? You want to hear that?
3 Let's say I was going a hundred miles an hour. He still
4 could not have arrested me because speeding is not a
5 crime in New Hampshire.

6 So if you don't -- listen. You are giving me
7 a hard time because you're not fair. You're not
8 actually coming out and saying this is all baloney.

9 THE COURT: It's not baloney.

10 MS. AMATUCCI: I --

11 THE COURT: It's not baloney.

12 MS. AMATUCCI: My foot -- you're sitting there
13 to determine the law, the federal law. That's all
14 you're supposed to do. You only have to say that I was
15 arrested unlawfully, seized unlawfully, because speeding
16 is not a crime.

17 THE COURT: It appears to --

18 MS. AMATUCCI: That's all you have to say.

19 THE COURT: It appears to me you were arrested
20 lawfully for disobeying a police officer and failing to
21 stop.

22 MS. AMATUCCI: This is not about disobeying a
23 police officer. This is not about that. That's a
24 separate claim.

25 THE COURT: That's what -- that's what you

68 (c)

1 say, but the evidence suggests that that's why you were
2 stopped. The fact that you say it's not true, you would
3 have to present evidence to show --

4 MS. AMATUCCI: He was saying I was speeding. *He was*
5 He just got through telling ten minutes to say I was
6 speeding.

7 THE COURT: Well, that's because --

8 MS. AMATUCCI: He's not saying --

9 THE COURT: That's --

10 MS. AMATUCCI: I was not stopped because I was
11 disobeying.

12 THE COURT: You --

13 MS. AMATUCCI: He just got through saying that
14 I was stopped because I was speeding.

15 THE COURT: You were -- you were --

16 MS. AMATUCCI: I don't want to hear another
17 word.

18 THE COURT: Okay.

19 MS. AMATUCCI: I don't want to hear you on
20 that.

21 So now we know that I was arrested
22 unlawfully --

23 THE COURT: I'm going to take a --

24 MS. AMATUCCI: -- and speeding has nothing to
25 do with it.

9/24/18

70

1 Now, disobeying police officer -- I should
 2 have never went to prison, I should have never went to
 3 jail, because the stop was unlawful. So when the stop
 4 is unlawful, even though they -- they claim I disobeyed
 5 a police officer, I don't go to jail. So that's another
 6 Fourth Amendment malicious prosecution. You don't go to
 7 jail if the stop was unlawful to begin with.

8 THE COURT: All right. I'm going to take a
 9 brief recess, talk to my law clerk for a few minutes,
 10 and I'll come back out in just a few minutes.

11 MR. MULLEN: Thank you, your Honor.

(Recess taken from 11:38 a.m. until 11:43 a.m.)

12 THE COURT: All right. The Court does not
 13 have any more questions, but if there's anything else
 14 that either side wants to say to the Court, this is
 15 your -- yes, Mrs. AmatuCCI?

16 MS. AMATUCCI: I want to deal with the summary
 17 judgment. I want --

18 THE COURT: That's what we've been doing all
 19 day today.

20 MS. AMATUCCI: No, that -- that has nothing to
 21 do with the summary judgment. I --

22 THE COURT: Just tell me what you want me to
 23 do and I'll listen to you.

24 MS. AMATUCCI: I want you to allow my summary
 25

NOT TO ANSWER
 THAT I
 SHOULD NEVER
 HAVE BEEN
 STOPPED IF
 I WAS NOT
 STOPPING
 AS PROVEN
 BY TRIAL
 JUDGE
 DEPUTY
 SHERIFF
 THOMPSON

70 (c)

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NOT TO ANSWER
 THAT I
 SHOULD NEVER
 HAVE BEEN
 STOPPED IF
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 SPEEDING
 AS PROVEN
 BY TRIAL
 JUDGE &
 DEPUTY
 SHERIFF
 THOMPSON

70 (c)

1 judgment, which is only based on a Fourth Amendment
2 malicious prosecution based on the unlawful arrest.

3 And I -- and -- I want -- under due process,
4 you have to allow my summary judgment because you
5 yourself made a statement that -- that you allowed my
6 Fourth Amendment malicious prosecution. You allowed it,
7 which means where the summary judgment is based on the
8 Fourth Amendment malicious prosecution, the violation
9 under federal law -- you already allowed it. You
10 already determined that there was a First Amendment --
11 Fourth Amendment malicious prosecution.

12 So it's like you're saying that there is a
13 summary judgment -- that the summary judgment -- I have
14 to issue the summary judgment because it's mandated once
15 you determine that there was a Fourth Amendment
16 malicious prosecution.

17 THE COURT: None of that's --

18 MS. AMATUCCI: You can't find it.

19 THE COURT: None of that's true. None of
20 that's accurate.

21 MS. AMATUCCI: But you didn't -- you didn't
22 allow my Fourth Amendment malicious prosecution?

23 THE COURT: I allowed it to proceed. I didn't
24 allow it --

25 MS. AMATUCCI: Right.

1 THE COURT: -- in terms of granting it.

2 MS. AMATUCCI: All right. Before you allow
3 it, what do you have to do? You have to investigate it,
4 don't you?

5 THE COURT: No, I don't investigate. I
6 just decide on evidence that you produce. This Court --

7 MS. AMATUCCI: Okay.

8 THE COURT: This isn't Europe.

9 MS. AMATUCCI: All right.

10 THE COURT: The courts don't investigate
11 things.

12 MS. AMATUCCI: There we go. So you -- you
13 decided on the evidence --

14 THE COURT: I allowed the case to proceed. I
15 didn't grant summary judgment for you.

16 MS. AMATUCCI: No, that's right, because I
17 never had it before you. You never gave me a chance to
18 talk about the summary judgment.

19 THE COURT: You had -- you had it today.
20 That's what --

21 MS. AMATUCCI: That's right.

22 THE COURT: Okay.

23 MS. AMATUCCI: Now I'm telling you that in
24 order for you to allow my Fourth Amendment malicious
25 prosecution, you determined that on the evidence beyond

1 a reasonable doubt before you made that statement that
2 you was going to allow it.

3 THE COURT: I never --

4 MS. AMATUCCI: You wouldn't allow something
5 that you don't --

6 THE COURT: I never --

7 MS. AMATUCCI: -- didn't investigate.

8 THE COURT: I never -- I never made any
9 determination beyond a reasonable doubt. This is a
10 civil case. I don't know what you're talking about.

11 MS. AMATUCCI: Well, that -- what made you
12 allow it? What made you allow the Fourth Amendment
13 malicious prosecution?

14 THE COURT: Because you stated -- you stated a
15 claim. You asserted a claim. You pleaded the facts.

16 MS. AMATUCCI: Yeah, but before you allow it,
17 you have to investigate it.

18 THE COURT: No.

19 MS. AMATUCCI: Oh.

20 THE COURT: No.

21 MS. AMATUCCI: Really?

22 THE COURT: Really.

23 MS. AMATUCCI: So if I said that I committed
24 murder, then you allow it? I mean, don't you have to
25 investigate? If someone says, I committed murder --

1 THE COURT: Yeah.

2 MS. AMATUCCI: -- don't you have to
3 investigate before you say, oh, it's true, it's not
4 true.

5 THE COURT: I -- Mrs. Amatucci, I really
6 apologize. I just can't follow you right now. I don't
7 know what you're saying. I -- I don't know what you're
8 talking about.

9 MS. AMATUCCI: So you're saying that -- that
10 you took my word for it.

11 THE COURT: At the -- at the initial stage of
12 the pleading, I allowed your case to proceed. We all --
13 we always take the plaintiff's word for it at the
14 beginning of a case and then we get to a part of the
15 case called summary judgment and then trial.

16 MS. AMATUCCI: Yeah.

17 THE COURT: At that point, we stop taking
18 people's word for it and we make them produce evidence.

19 MS. AMATUCCI: No. At summary judgment you do
20 have to take a word for it. Summary judgment --

21 THE COURT: I know what you mean. You mean
22 that --

23 MS. AMATUCCI: Not -- in order for you to
24 determine summary judgment, you have to look at all the
25 evidence.

74 16

1 Did you look at all the evidence?

2 THE COURT: Yes.

3 MS. AMATUCCI: Okay. Did you see where the
4 arrest is considered unlawful in New Hampshire for
5 speeding? Did you see that?

6 THE COURT: I -- what I saw was that you were
7 arrested for -- you were arrested for failing to obey a
8 police officer and failing to stop. That's what I saw
9 happened in this case.

10 MS. AMATUCCI: A Fourth Amendment malicious
11 prosecution, which is what you allowed, is all about the
12 unlawful arrest; not about --

13 THE COURT: I know, but the evidence
14 doesn't -- the evidence does not establish that you were
15 arrested for speeding. The evidence establishes that
16 you were arrested for failing to obey and disobeying a
17 police officer and refusing to stop. That's what the
18 evidence suggests. And you haven't done anything --

19 MS. AMATUCCI: I was --

20 THE COURT: -- to rebut that.

21 MS. AMATUCCI: -- prosecuted for speeding.

22 THE COURT: But I --

23 MS. AMATUCCI: Is that evidence?

24 THE COURT: Yes, but you were also prosecuted
25 at the very same time --

75 (c)

1 MS. AMATUCCI: Also -- I could have been also
2 been prosecuted for kidnapping, but we're not talking
3 about also. We're talking about what's before this
4 Court.

5 THE COURT: But the also -- see, what you
6 don't understand is that the also does matter. The also
7 does matter. Because everything that happened to you,
8 all right, for the speeding citation --

9 MS. AMATUCCI: But we're only talking about
10 the --

11 THE COURT: You're --

12 MS. AMATUCCI: We're only talking about one
13 issue.

14 THE COURT: You're only talking about one
15 issue, but I have to talk about reality and the facts
16 and what happened in the case. I have to look at
17 evidence. They've provided evidence. And despite many,
18 many times of explaining that --

19 MS. AMATUCCI: They never provided evidence
20 for the unlawful arrest, the unlawful arrest, the
21 unlawful arrest. What evidence did they produce for the
22 unlawful arrest? Nothing. They cannot tell you that I
23 was lawfully arrested.

24 THE COURT: And --

25 MS. AMATUCCI: That's the issue. And

76

1 you're -- you -- you -- you better allow my summary
2 judgment today because if not, you're warring against
3 the Constitution and I'm going to have you disbarred.
4 I'm going to have -- you according to the law, you have
5 to allow my summary judgment, because --

6 THE COURT: For the record, Mrs. Amatucci's
7 standing, screaming, and --

8 MS. AMATUCCI: Due process --

9 THE COURT: -- and pointing at the Court.

10 MS. AMATUCCI: -- due process -- you are
11 ignoring due process summary judgment. You have to
12 process that summary judgment today. Deny it -- deny it
13 or allow it.

14 THE COURT: I -- I promise you by the end of
15 today you'll have a court order ruling on your motion
16 for summary judgment, Mrs. Amatucci, and ruling on your
17 motion for summary judgment, Mr. Mullen. I promise.

18 MS. AMATUCCI: What -- wait a minute. Their
19 motion for summary judgment is based on the stop, the
20 speeding. This is not about the speeding. You can't
21 even allow their summary judgment based on speeding
22 because this case is not based on speeding.

23 So how are you going to judge that? That's
24 moot. That has nothing to do with a Fourth Amendment
25 malicious prosecution. A prosecution is due to the

8-2-37 2018

78

1 seizure, the unlawful seizure, which was the arrest,
2 which was the incarceration --

3 THE COURT: But that --

4 MS. AMATUCCI: -- which was the detention,
5 which was the prosecution --

6 THE COURT: But the evidence --

7 MS. AMATUCCI: It has --

8 THE COURT: The evidence is that all of that
9 was based on a failure to stop and a disobeying a police
10 officer.

11 MS. AMATUCCI: No, the failure to stop was
12 based on the unlawful speeding. They were -- they
13 were --

14 THE COURT: But, see -- okay. Let me
15 explain -- let me explain it to you.

16 The evidence says that you were found not
17 guilty of speeding, but the evidence also says that when
18 the officer tried to pull you over for speeding, that
19 was lawful. That was lawful.

20 MS. AMATUCCI: Why was it lawful --

21 THE COURT: Because --

22 MS. AMATUCCI: -- if I wasn't speeding?

23 THE COURT: Because you were traveling 42
24 miles an hour. And the statute --

25 MS. AMATUCCI: But that's -- that's not a

I WAS NEVER
SPEEDING
I WAS
SET-UP

78 (c)

1 crime.

2 THE COURT: Let -- you need to read the --

3 MS. AMATUCCI: I shouldn't have been stopped.

4 THE COURT: Stop interrupting me.

5 The statute -- there's a statute that says
6 it's prima facie evidence for the case if you were
7 traveling over the speed limit. That's the problem.
8 The stop was lawful because you were traveling over the
9 speed limit. All the evidence shows that. The stop was
10 lawful. All right?

11 Maybe there's an argument somewhere that the
12 prosecution was unlawful. The problem is that
13 prosecution was run parallel with a very lawful
14 prosecution of which you were found guilty for
15 disobeying an officer and failing to stop, which was
16 supported by probable cause and proven after a trial.

17 MS. AMATUCCI: Okay. The law of speeding.
18 You claim -- you claim that he had a right to stop me
19 because he claimed I was speeding. But under the law, I
20 could speed 11 miles over the limit.

21 THE COURT: Yes.

22 MS. AMATUCCI: Right?

23 THE COURT: Yes.

24 MS. AMATUCCI: Which means he had no probable
25 cause to stop --

179

9/24/18

80

1 THE COURT: No --

2 MS. AMATUCCI: -- me --

3 THE COURT: -- see that's the problem.

4 MS. AMATUCCI: Wait a minute.

5 Plus it was determined that the weather was
6 not -- the weather was good, it was a good day, and they
7 had no -- they had no reason --.

8 THE COURT: That's what -- that's right.

9 MS. AMATUCCI: -- to stop me.

10 THE COURT: That's why you were found not
11 guilty.

12 MS. AMATUCCI: That's right.

13 THE COURT: But that doesn't mean the (stop) was
14 unlawful.

15 MS. AMATUCCI: Yes. The judge -- you're
16 forgetting. The judge said --

17 THE COURT: Mrs. AmatuCCI, every day --

18 MS. AMATUCCI: -- that I was not speeding.

19 THE COURT: Mrs. AmatuCCI, you don't -- you
20 just don't get it.

21 Every day in this country people are found not
22 guilty of crimes. That doesn't mean their arrests were
23 unlawful. If the arrests were supported by probable
24 cause, the arrests are still lawful. The judge never
25 made a finding that that stoppage of you was unlawful or

Oh yes he did - he said it was
A SET-UP - The PURSUIT WAS A
SET UP 80 (C)

1 that attempting to pull you over for speeding was
2 unlawful.

3 MS. AMATUCCI: He never found it was unlawful?

4 THE COURT: No.

5 MS. AMATUCCI: I was found not guilty.

6 THE COURT: That's different.

7 Listen, I can't do this anymore. I'll explain
8 it the best I can --

9 MS. AMATUCCI: No, wait a minute. He also
10 found that I was not speeding.

11 THE COURT: He found you were not guilty --

12 MS. AMATUCCI: He found -- it was a -- *Set-IP*

13 THE COURT: Stop interrupting me.

14 MS. AMATUCCI: You are going to allow my
15 summary judgment based on the unlawful arrest,
16 incarceration, and forget the speeding.

17 THE COURT: Stop.

18 MS. AMATUCCI: This is not about weather.

19 *I was
never
screaming* THE COURT: Stop screaming at the Court and
20 sit down, please. Stop screaming at the Court.

21 MS. AMATUCCI: Even if he had probable
22 cause --

23 THE COURT: Stop screaming at the Court and
24 sit. You'll have my order by the end of the day.

25 You should be ashamed of the way you've

1 behaved in this court.

2 MS. AMATUCCI: No. I should -- you should be
3 ashamed of what you -- you're not standing by me. You
4 should be ashamed that you're warring against the
5 Constitution by not --

6 THE COURT: I understand that's how you feel.
7 I do. But the fact of the matter is, Mrs. Amatucci --

8 MS. AMATUCCI: But wait a minute. You are not
9 determining the law when you're determining my summary
10 judgment. We're talking about the law, not about your
11 opinion. We're talking about an unlawful seizure, an
12 unlawful arrest, and you don't want to talk about that.

13 THE COURT: I --

14 MS. AMATUCCI: You keep saying, oh, you were
15 speeding, you were speeding, you were speeding --

16 THE COURT: Mrs. Amatucci, you are incorrect.
17 I have explained to you now repeatedly why your stop was
18 lawful. *ITS NOT PROPER TO STOP ITS NOT FOR*

19 MS. AMATUCCI: You have no -- *FOR STOPPING*

20 THE COURT: You happen to disagree with me.
21 Be seated.

22 MS. AMATUCCI: You have no --

23 THE COURT: Be seated, please.

24 MS. AMATUCCI: I am going to sit here until
25 you let my summary judgment pass.

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1 THE COURT: You may not sit there, because I
2 have to go back to my chambers and issue an order in
3 this case. You are not going to be permitted to sit
4 here until that happens. You're going to be escorted
5 from the courtroom by a court security officer if you
6 don't leave voluntarily. This isn't a campsite. If you
7 want to wait.

8 MS. AMATUCCI: I'm going to wait for my
9 order --

10 THE COURT: If you want to wait for the order
11 -- if you want to wait for the order --

12 MS. AMATUCCI: Yeah.

13 THE COURT: -- you can wait downstairs in the
14 lobby.

15 MS. AMATUCCI: No, tell me now. Tell me now.

16 THE COURT: I'm not deciding now.

17 MS. AMATUCCI: There's no decision to make.
18 You have to go by the law. The law says I should never
19 have gotten arrested.

20 THE COURT: I --

21 MS. AMATUCCI: That's the case.

22 THE COURT: The -- the law says to me --

23 MS. AMATUCCI: Yeah.

24 THE COURT: Having read all the facts in here,
25 the law says to me --

1 MS. AMATUCCI: No, there's one fact; was I
2 lawfully arrested. Answer that. Answer that right now.

3 THE COURT: Yes.

4 MS. AMATUCCI: Was I lawful -- I was lawfully
5 arrested?

6 THE COURT: Yes.

7 MS. AMATUCCI: But according to New Hampshire,
8 speeding is not a crime. So how could I be arrested if
9 it's not a crime?

10 THE COURT: The evidence shows you were
11 arrested for --

12 MS. AMATUCCI: Wait a minute. Just talk to
13 me. Never mind the evidence.

14 If speeding is not a crime, how could I be
15 arrested? Answer that.

16 THE COURT: You could be arrested for a crime
17 you committed at the same time as you were speeding --

18 MS. AMATUCCI: No, I'm talking about speeding.
19 This is all about speeding.

20 THE COURT: That -- it's not.

21 MS. AMATUCCI: It's speeding.

22 THE COURT: It's not --

23 MS. AMATUCCI: No, I was prosecuted for
24 speeding.

25 THE COURT: We're adjourned.

84 (c)

1 THE CLERK: All rise.

2 MS. AMATUCCI: This -- you are corrupt to the
3 core.

4 He thinks he's going to get away with this.
5 I'm going to have him disbarred.

6 (Proceedings concluded at 11:56 a.m.)
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C E R T I F I C A T E

I, Liza W. Dubois, do hereby certify that
the foregoing transcript is a true and accurate
transcription of the within proceedings, to the best of
my knowledge, skill, ability and belief.

Submitted: 11/19/18

Liza W. Dubois
LIZA W. DUBOIS, RMR, CRR